THere after fo-

loweth a Dialoge in Englisches

bytworte a Ductour of Dyuynytc, and a Student in the Lawes of Englade:
of the groudes of the layd lawes
and of Lonlegence.



TItistobnder-

stande that thoughe this Dyaloge
stand places agreyth with the Dyaloge/that
was lately drawen in Laten/bytwyrte a Dot;
toure/and a Student orthe same groundes

pet it can nat be taken as a transla;
eton out of that Dyaloge in laten/
for there be dyuers thynges put
sto this Dyaloge in Englishe
that be nat in the sayd late

Dialoge: I in lykewpse
there be soe thynges i

the late Dyaloge/ that be omitted i this as to the reder well appere.

also in the later ende of this present Dpologe, is asked this questyon howe the recouerves that be vied to descretaried lades may sande with conserence, and druers reasons be made therin, as to the reder will appear.



Che Introduction.



Doctoure of divinite that was of greate acquentance and familia; ritie with a Student in the lawes of Englande said thus vnto hymis have had greate despre of long tyme to knowe wherupon the lawe of Englande is grounded, but by

taule moche parte ofthe lawe of Englande is witt ten in the frenche tong/ Therfoze I can nat thrugh inpne owne ftudy attaygne to the knowlege therof to; in that tong 3 am nothrnge experte. Inb by: caule I haue alwayes founde the a faithfull frende to me in all my bulpnes: Therfore I am boibe to come to the byfore any other to knowe thy mynde, what be the very groundes of the lawe of Eng abe as thou thonkelt . T Student. That wolde afte a greate leafure / and it is alfo aboue inp convinge to boit. Beuerthelelle that thou Chait nat thonke that I wolde wylfuily refule to fulfyll thy Defrae/ thall with good wyll do that in me is to fatiffe the inpude : but I pray the that thou mylte fraft Cheme me Commbat of other lawes that parteine molt to this mater and that boctours treate of:howe lawes haue begon. Ind then I wyll gladly thewe the as me thynacth what be the groundes of the lawe of Englande I Doctour. I well with good well bo as thou Caylle / wherfore thou Chalte underffande that Doctours treate of foure lawes/the whiche as me lemeth parteine molt to this mater. The fraft is the lawe cternall. The feconde is the lawe ofna ture of reasonable creature ; the whiche as I haue The Hall Tya. A.ii.

Chefpalte

hardelay is called by the that be lerned in the law of Englande the lawe of reason. The thyrde is the lawe of god. The fourth is the lawe of man / And therfore I wyll from treate of the lawe eternall.

1573 Cotthe lawe eternall, the typite Chapitre.

Detout/ Lyke as there is in enery artificer a reafo of fuche thringes as are to be made by his crafte , to lyke myle it behoueth that in cuery gouernour there be a realen and afore fratt in the gouernour of fuche thringes as Chall be ordered and bone by him to them that he hathe the gouernaunce of and for as moche as al: invghty god is the creatore and maker of all creas tures to the whiche he is compared as a workeman to his worke. And is also the gouernoure ofait bes des and mournges that be founde in any creature Therfore as the realo of the woldoine of god i that creatures be create by bym hath the reason of all craftes and warks that have bene or Chaibe made, to the realon of the wyldome of god monynge all thongs by him made to a dewe ende opterneth the name and the reason of a lawe , and that is called the lawe eternall. Ind this lawe eternall is called thefralt lawe and it is well called the fralt for it was byfoze all other lawes; and all other lawes be dervated of it , wherupon farnt Augustone fareth in his fort boke of arboterment that in temporall lawes no thynge is enghtwyle ne lawfull / but that the pe

the people haue Derpuied to them out of the lawe eternati. wherfore euery man bath ryght and title to have that he hathe ryght wylelp ofthe ryghtwyle ingement ofthe fraft reafon, whiche is the lawe eter nail. I Student But howe may this lawe eter: nail be knowen: for as the apollle writeth if the. be chapitre of his fraft epiftle to the Lozinthres. Due Cunt Dei nemo leitnifi fpiritus Dei / That is to fap/ no man knoweth what is in god but the Cpirite of god/wherfoze it femeth that he loketh to bygh that attempteth to knome it. T Doctourer Chis lawe eternall no man may knowe as it is in it felfe / but only bleffed foules that fe god face to face / but als myghty god of his godnes Cheweth of it as moche to his creatures as is necessary for them for els god Chulde bynde his creatures to a thyng impollible/ whiche may in no wple be thought in hom : Ther: fore it is to bnderftande that thre maner of waves almyghty god maketh this lawe eternall knowen to his creatures reasonable. fraft by the lyght of naturall reafon. Seconde by heuenly renelacion. Thyrdly by the order of a prince or of any other le cundarye gouernoure / that hathe power to bynde his lubiettes to a lawe. And whan the lawe cternal or the well ofgod is knowen to his creatures reafor nable by the lyght of naturall onberfandyng / 02 by the lyght of naturall reason , than it is called the lawe of reason. Ind whan it is themed by heues ly renetacion in Cuche maner as beceafter fhall ap: pere than it is called the lawe of god and whan it is thewed buto hum by the order of a princer or ofano

The feconde

of any other secundarie governoure that hath poswer to set a lawe byon his subjectes than it is called the lawe of man though originalise it be made of god, for lawes made by man, that hath received thereto power of god be made by god. Therfore the saye thre lawes, that is to saye, the lawe of reason, the lawe of god and the lawe of man, the whiche have several names after the maner as they be she wed to man be called in god one lawe eternal. And this is the lawe of whome it is written. Proverbioz wo of another it is saye, we reges regnant et legic conditores insta discernant. And this suffyseth for this tyme of the lawe eternal.

I Of the lawe of reason the whiche by Doctours/
is called the lawe of nature of resonable
creatures. The seconde chapitre.

that the lawe of nature may be conspored in two maners , that is to sape , generally and specially whan it is conspored generally then it is referred to all creatures as well re sonable as directored to all creatures as well re sonable as directorable, so, all directorable creatures spuce directorable, so, all directorable creatures spuce directorable to them given by nature necessary so; them to the consequence of they, being, but of this lawe it is nat our entent to treate at this tyme, the lawe of nature specially considered, whiche is also called the lawe of reaso parterneth onely to creatures reasonable that is man, whiche is create to the ymage of god. And

this lawe duglit to be kepte as well among Jewes and gentple/ as among cryften me/ and this lawe is alway good and ryghtwyle Ayaryng and encip: nring a man to good and abhozering eugli/and as to the ordering of the dedes of manit is preferred befoje the lawe of gob. And it is witten in the herte of cuerr man techong hom what is to be bone and what is to befled . And bycaufe it is writen in the hatte therfore it may nat be put av ave ne it is nes uer chaugeable by no byuerfptie of place ne tyme. Ind therfore agaynft this lawe preferepcion ftatut noz cultome may nat prenaple, & ifany be brought in agaynft it they be no preferipeions flatutes noz cultomes but thruges voyde and agant intree. and of other lawes as well the lawes of god as to the actes of men as other be grounded therupon. I Student : Syth the lame ofreason is waiten in the herte ofenery man as thou hafte fayd befogerte chynge hym what is to be bone, and what is to be fled / and tie whiche thou Capite may neuer be put out of the berte, what nebed it than to have any os ther lawe brought in to order the acres and dedes ofthe people. (Doctoure / Thoughe the lawe of reason may nat be chaunged not hollye put away nevertheles before the lawe wirtten it was greatly let and bipnocd by eupil cuftomes and by many synnes of the people bely de the oxiginal conner in to moche that it impght hardly be differned what was ryghtwyle , and what was buryghtwyle , and what good and what enpil / whertoze it was necels farge for the good order of the people , to haue

The Ceconde

many thynges aboed to the lawe of reason as well by the churche as by feculer paynees according to the maners of the countrey and of the people where fuche abdycpous thulbe be excertifed. Indithis law of reason deffereth fro the lawe of god in two ma: ners: for the lawe of god is gruen by renelacion of god: and this fame is gruen by a naturall leght of understanding. Ind alfo the lawe of god ordereth a man ofit Celfe by a nyghe way to the felicitie that euer Chall endure. Ind the lawe ofreafon ozdereth a man to the felicitie ofthis lyfe. [Student what be tho thrnges that the lawe of reason teacheth to be bone : and what to befled. T Doctoute / Che lawe of reason techeth that good is to be loued and empli is to belled alfo that thou Chatte bo to a no: ther that thou woldelt another thulbe do to the:al: so that we may bo no thong against trouth also that a man mult lyne peacefally with other. That fullyce is to be bone to enery man / a that wrong ts nat to be bone to any man. Ind alfo that a trefpat fer is worthy to be punythed of the whiche folowe opners other fecundary comaundementes ! the whiche be as necessarye cocluspons deriuped of the toute as ofthat comaundement that good is to be beloued it foloweth that a man Chal loue his benes factour / for a benefactour in that he is a benefacs tour includeth in hom a reason of goodnes, for els he sughte nat to be called a good boer/but an eupl boet / Ind Co in that he is a benefactoure , he is to be beloued in all tymes and in all places. Ind this lawe also suffereth many thonges to be bone as that that it is laufuil to put awave force with force. Inb that it is lauful foz euery man to Defende hom felfe and his goodes agapult an unlaufull power. Ind this lawe renneth with every mannes lawe / Gnb alfo with the lawe of god as to the dedes of man, and mult be alwayes kepte and oblerued and Chal alwaye declare what ought to folowe byon the ues nerali rewles of the lawe of man, and thall reftrais ne them if they be in any thonge contrarve buto it. Ind here it is to be buderftande that after Come men that lawe wherby all thynges were in comon was never of the lawe of realo, but only in the time ofertreme necellytie: for they lave that the lawe of reason mave nat be chaunged , and thepsape that it is envocnt/that that lawe of thonges to be in co: men is channged , whereoze they conclude that it was never of the lawe of reason.

De the lawe of god the thyzde chapitre.

Detoure. The lawe of god is a certaine grite gruen by renelacion to reasonable creatures the wring hum the writ of god writting that creature reasonable to be boude to do a thring or nat to bo it i for the optarring of the felicitie eternall. And it is sayd for the optarring of the felicitie eternall to exclude the lawes showed by renelacion of god: for the political rewie of the people, the whiche be called Judycials for a lawe is not properly called the lawe of god by cause it was

The thyzde

it wasthewed by reuelacyon of god / but alfo by: cauce it dyreatth a man by the nerplt waye to the telicitie eternall as ben the lawes of the olde Celta ment that be called morals , and the lawe of the Buangel:ftes: the whiche were fhewed in moche more ercelet maner, then the lawe ofthe olde Tels tament was : for that was thewed by the mediacis on ofan Bungeit. And the lawe of the Guangelift by the medpacion of our lorde Thefu Chrifte god and man, and the lawe of god is alway ryghtwyle and fufte / for it is made and gruen after the well ofgod. Ind therfore all acres and bedes ofman be salled ryghtwyle and fulle when they be bone acz corbying to the lawe of god and be confirmable to it. alfo fomtyme a lawe made by man, is called the lawe of god ' As whan a lawe taketh his princis pall grounde byon the lawe of gcd: and is made for the declaracion or colernacion of the fayth, and to put away berefpes as Dyuces lawes Lannons/ and also byuers lawes made by the comen people fomtyine do. The whiche therfore are rather to be talled the lawe of god than the lawe of man. ret neuertheles all the lawes Canno be nat the lawes ofgod for many of them be made only torthe po lytycall rewie and convertaryon of the people / wherupon Thon Gerlon in the treatuce of the biri tual lyfe of the fonle the feconde lefton a the thyade corollary layth thus, all the canons of Dopes nor theve Decres / benat the lawe of god / for many of the be made only for the polytycall connerfacton of the people and if any man wyll fave, be nat all

the goodes of the churche fuititnall : for they belog to the spiritualytie and leed to the spirytualite , we answere that in the hoole polytreall conucrsacyon ofthe people, there be fome (perpalipe Deputed and Dydicate to ferue god / the whiche moft fpecplip as by an excellencie are called (pirytuel men/ 3s reli: gious men are / and other thoughe thep walke in the way ofged pet neuertheles byeaufe thep; office is most specyally to be occupyed about suche then: ges as partagne to the comon welth a to the good ordre of the people / they be therfore called fecules men or lay men neuertheles the gooder of the fyilt may nomore de called spirituel, then the goodes of the other for ther be thynges mere temporall and keppinge the body as they do in the other. Ind by lyke reason dames made for the polytycall ordie of the churche be called many tomes (pirituell, or the lawes of god. Reuertheles it is but bnproprelye / and other be called Epuple or the lawe of man. And in this popute many be ofte tomes deceyned & allo decepne other the whiche indge tho thonges to be spirituell, the whiche all men knowe be thringes materiall & carnall. Thele be the wardes of John Berfon in the place alegyd before. furthermore belyde the lawe of realon , and the lawe of man it was necessary to have the lawe of god forfoure rea fons. Thefyste breaule manis orderned to the ende ofeternall felicitie the whiche excedeth the pro porcion efacultie of man. Thertore it was necella: rie that befpbe the lawe of reason and the lawe of ena he Chuld be directed to his ende by a lawe made

The thyzde

ofgod. Deconbefoz as moche as foz the bucerten: tie of mannes ingement fperpally of thynges par: tyeuler and Celbomefalling : It happeneth ofte ty mes to folowe dyners ingementes of dyners men : and allo byuerfpties of lawes thertoze that a man without any dont may knowe what he Chall Do / & what he Chal nat do: It was necellary that he Chulb be byreded in all his dedes by a lawe henenly gy: nen by god , the whiche is fo apparant that no ma map (waruefro it. Thordely bycaule a man mare onely make a lawe of fuche thyng; as he may inge bpon, and the jugement of man may nat be ofins warde thonges but only of outwarde thongs, and neuertheles it belongeth to perfection that a man be well ordered in both. Therfore it was necessary to have the lawe of god , the whiche Chulde ozdze a man as well of inwarde thonges as of outwarde thynges. Thefourth is bycaufe as fait Augustine farth in the fraft boke of fre arbytrement, the lawe ofman may nat punylibe all offences / for if all of fences fhuide be puny thed the comon welth fhuide be burte as it is of contractes therfore that no envl fuld be bupunpffbed it was necestary to have the lawe of god that Chulde leue no eupl vnpunyffhed .

De the lawe of man /

Datoure, The lawe of man the whiche los tyme is called the lawe polityue is deriuted by reason as a thrug whiche is necessaryly and probably following of the lawe of reaso

and

and of the lawe of god. Ind that is called probable that appereth to many and specyally to wyle men to be true / Ind therfore in enery lawe politine wet made is Comwhat of the lawe of realon , and of the lawe of god, and to difreene the lawe of god and the lawe of realon from the lawe polytone is very harde , and thoughe it be harde pet it is moche mes cellary in enery mozal doctryne for the como weith Ind that the lawe of man be iufte and reghtwyle! two thynges be netellary, that is to fay / wyfoome and auctorytie / wyloome that he may iuge attet reafon what is to be done for the compnaitie : and what is expedient for a pealpble converlacpon and necellary fuftentacyon of them / Auctozytie that he haue audoptie to makelawes, for the lawe isna med of Ligare, that is to fay / to bynde : But eues ep fentence of a wyle man both nat bynde the com: monaltie if be haue no rewle ouer them . Alfo to es uery good lawe be required thele properties , that is to lay that it be honelt ryghtwyle , pollyble by reason and after the custome of the countrevicoue; nient for the place and tyme necellary/profytable; and allo manyfelte that it be nat captions by any barke fentence ne myrte with any prvuate welth/ but all madefor the comon welth. Ind after fannt Briget in the fourth boke in the . C. rrir. chapitre enery good lawe is ordepned to the helthe of the foule, and to the fulfpling of the lawer of god:and to enduce the people toffpe eupli delpres and to do good warkes. Alto as the cardynall of Camet wiv teth what to ever is ryghtwole in the lawe of man:

is tyg:

Chetoneth

is ryghtwyle in the lawe of god / for enery mannes lawe mufte be confonant to the lawe of god. And therfore the lawes of princes , nor the comaundes mentes ofprelates, the fatutes of comonaities: ne pet the ordynaunce of the churche is nat ryghtwyle nozoblygatozye / butit be confonant to the lawe of god. And offuche a lawe ofman that is conionant to the lawe of god / it appererh who hathe ryght to landes and goodes, and who nat, for what fo ener a man bath by fuche lawes of man / he bath reght wyleipe. And what so ever is hade agaynst suche laves is burpghimplive had : for lawes of ina nat contrarie to the lawe of god/ not the lawe of reafo mult be obferned in the lawe of the foute / and he that dyfpyleth thein : dyfpifeth god and refpfteth god. Indfurthermoze as Gracian fayth byraule enpli men fere to offende for fere of papne. Ther: toje it was necestarpe that druers papnes fhuid be ordayned for dyners offences as Dholocions ors Dayne dyners remedyes tor leucral diffcales. And thefe paynes be ordayned by the makers of lawes after the necellytie ofthe tome: and after the bi pofi cion of the people. Ind though that lawe hath a co feringtie to the lawe of god for that the lawe of god comaundeth that the people Chall take away eurit from among the felfe pet they belong nat fe moche to the lawe of god but that other paynes ftandeng the fall pronciples myght be ordanned appopus ted and this is the lawe that is called moft muerly the lawe polytone and the lawe of man . Ind the Diplotopher layth i the thyrde boke of his Etyks

that the entent of a maker of lawe is to make the people good / and to baynge them to pertue. End thoughe I haue fomwhat in a generalytie fhewed the wherupon the lawe of dinglande is grounded/ for ofnecellptieit multe be grounded of the lapoe lawes , that is to lage , of the lawe eternall, of the lawe ofreafon/ and of the lawe ofgod : Renerthes les I pray the thewe me more fpervity wherepon it is gronnded as thon befoze hafte promyled to bo. Chtudent / 3 wyll with god wyil do therin that lyeth in me/for thou hafte thewed me a playne and a ftrapte way therto / Therfore thou Chalte bnoer: 6. fande that the lawe of Englande is grouded bpo qu fpre pyneppall groundes. fygite it is grounded on an Di the lawe of reaton. Seconde of the lawe of god . ter Chyldly of dyners general customes of the realme fourthly of opuers prynciples that be called mart mes. frethip of dyners ptyruler cuftomes. Syrtip of bonces fatutes mabe in Barlyamentes by the avng and by the comon councell of the realine of whiche groundes I thail fpete by ordre as thep be reherled betozel and feast of the lawe of reason, maximu & photo ay hony. O. Stat: Him parliament I of the fratte grounde of the lawe, of Englande. The. b. chapitre.

Stande is the lawe of reasons wherethou hall treated before in the seconde thapitre: the whiche is kepte in this realme as it is in all other realmes and as of necessite, it was nedes be as thou halle

layd byfore. T Doctoure, But I wolde knowe what is called the lawe of reason after the lawes of Englande. W Student, Chere be out by them that be lerned i the lawes of England two Degrees of the lawe of reason, that is to fav the lawe of reas fon primarie and the lawe of reason secundarie by the lawe of reason primarve be phibit in the lawes of Englande murther and the deth ofhom that is Innocent, periurpe, discerte brekyng of the peace and many other tyke. And by the fame lawe alfo it is laufall toz a ma to befende bom felfe fo he keve dewe circultance And alfo if any prompfe be mads by man as to the body it is by this lawe poppe in the lawes of Englade. The other is ralled the lawe of a fecundarye reason , the whiche is deavoed in to two branches: that is to lay in to the lawe of a les tundarpe realon generall and in to a lawe of a les tundarye reafon pertyculer. The lawe of a fecuns darpe reason generall is grounded and derpused of that generall lawe or generall cultome of pro: pretye wherby goodes mouable and unmouable be brought in to a certevne przetie / Co that enery man may knowe his owne thong. And of this lawe be probpbited in the lawes of Englande diffeatos! trespalle in landes and goodes refeues, thefre, bus laufull witholdeng of a nother manes goodes and fuche other . Ind by the fame lawe it is a crounde in the lawes of Englande that latilfaction must be madefor a trespasse and that restytucion must be made of fuche goodes as bylogeth to another ma: that bett muft be payber conenaund fulfylled and Cache fuche other. And bycaule dillealons, trefpas in las Des and goodes thett and luche other had nat ben knowen, if the lawe of proprette had nat ben ordep ned: Therfore all thynges that be comaunded or phibited by the lawe ofreaton deriuped out ofthe Capt lawe of propretie / be lay de to be comaunded oz prohibit by the lawe of a reafon fecundarie ges nerali for that lawe of propretie is generally kept in all countreps. The lawe of reafon fecubarie per ticuler is that lawethat is grounded bpon byuers cultomes generall and perticuler, and of byuers maximes and Catutes orderned in this realine. and it is called the lawe ofreafon fecundarie pers ticuter/ bycaufe that reafon in that cafe is Deriuy; eb of luche a lawe that is only holben for lame in this realme & in none other realme / And it is nat moche vled in the lawes of Englande to reafon , what lawe is grounded bpon the lawe of the frafte realon primarie, or of the lawe ofreafon fecubary: for they be most comenty opery knowen of the Ceifer but for the knowlege of the lawe of reason Cecubarie is greater difficultie, and therin dependeth moche the maner and fourme of argumentes in the lawes of Englande Ind it is to be noted that all the De: rouveng of reason in the lawes of Englande pro= cebeth of the foalt principles of the laweroz of foine thrng that is derinied of the I and therfoze no,ma may ryghtwylly iuge ne groudely reason in the la wes of Englande if he be pgnozaunt in the forfte principles. Allo all byides fowles wylde beeltes, as beeltes of foreges and warren and fuche other The toth Tra. 25.16

be excepted out of the layd generall lawe seuttome of propretye. For by the lawes of the realme no propretie maye be of them in any parton onless they be tame. Renertheles the egges of hankes. Herons, or such eather as buyibe in the grounds of any partone: be adjuged by the layd lawes to belonge to hym that oweth the grounds.

Of the leconde grounde of the lawe of Englande. E. he, vi.chapitre.

wubent, The leconde grounde of the lawe of Onglande is the lawe of god , and therfore to punyThe offenders agarnfte the lawe of god, it is enquered in many courtes in this realme, if any holde any oppynyons fecretly of in any other mas ner agaynft the true catholicail fayth. And also if any general cultome were directly agaynt the faid lawe, or if any flatute were made dyredly agarnft it as if it were ordayned that no almes shulde be avuen for no necellytie that cultome and fatute were popde. Renertheles the ftatute made in the rriffi. pere of kyng Cowarde the thyade / wherby it is ordayned that no man bnder payne of improfos nement thall grue any almes to any valyant beas gers that may well laboure , that they may fo be compelled to laboure for they lyuynge is a good Statute, for it oblerueth the itent of the la we ofgod. Bifo by audorytic of this lawe there is a grounds

in the lawes of Englande that he that is acurfed thalt mayntene no accgon in the hynges contte exs tepte it be in bery teme cales fo that the lame erco: inunycacion be certytged befoge the kynges July: tes in futhe maner as the lawe of the realme hath appoputed. And by autopytic allo ofthis groude, the lame of Englande amptteth the fpirpruell in: ryloveryon of dylines and offerynges. And of all other thonges that of ryght belong unto it. Ind recepueth alfo all lames of the churche Dewelp mas De and that excede nat the power of the that made them. In to moche that in many cales it behoueth the kynges Juftyces to iuge after the lawes of the churche. (Dodoure/ Dowe may that be that the kynges Julyces that inge in the kynges cours tes after the lawe of the thurche / foz it femeth that the churche Chulde rather gyue ingement in futhe thynges as it may make lawes of: then the kyngs Student / Chat may be done in Jultvres. many tales / wherof I fhall for an example put this cale . If a wayt of ryght of warde be brought arou of the body. tr. And the tenaunt confesigng the te: De noure and the nonage of the Infaunte feyth that care the intaute was maried i his auncelters Daves. tc. wherbpon rii. me be shorne whiche grue this verdit that the infante was maried in the lyfe of his aunce fter. Ind that the woma in the lyfe of his auncefter. fued a beuozee wher bpon fentence was gruen that they fluid be denozced and that the herze appeled whiche hageth get undyftalled praying the ayoe of have the Jultyce whether the infaunte in this cafe tgalbe Aue tow wy To hetpet Tya. Le Gelt B.ii. In famt th

Saybe maried og nati In this cafe if the lawe of the churche be that the lapo fentence of Deuozee frande in his ftrength & vertue bntpl it be adnulied bpon the fayb appele. Than the Infaunte at the Deth of his aunceltet was bumarved bycaule thefyalt ma: riage was admulled by that denozee. Ind if the law of the churche be that the fentence of that Deuozce Candeth nat in effecte toll it be affermed boon the Capb appele , then is the Infaunte pet marped io that the value ofhis mariage can nat belong bnto the lorde. Ind therfore in this cale Jugement con: Optioneli Chall be gyuen. te. and in tyke wyle the avnges Julice in many other taics that inge after the lawe of the thurche, lyke as the fpirituell juges mult in many cafes forme they jugement after the honges lawes. T Dodoute / Dowe may that be that the fpirituel Inges Chulbe inge after the kyn: ges lawes | I pray the Chewe me Come certayne cale therof. [Student/ Choughe it be fomwhat a dif: greffio tro our fraft purpofer pet I well nat withlay thy delyze but well with good well put the a cafe or two therof that thou mapft the better parcevue what I meane. If &. and 25. haue goodes tornely and a by his laft well byqueth his pozepon therin to C. And maketh the Card B. his executoure and prethe and L. alketh the execution of this will in the spirituell courter In this case the inges there be bounde to inge that well to be bopbe: breaule it is bopde by the lawes of the realme. Ind in lykwyle if a mabe outlawed and after by his wyll brqueth certagne goodes to John at Style/ and make his

executours and dre / the kyng lealeth the goodes/ and after geneth the agaphe to the executours and after J. at Style such a Sytacion out of the spirit tuell courte agaphs the executours to have execueyon of the wyll/ in this case the Juges of the spiris tuell courte must inge the wyll to be voyde as the lawe is. And yet there is no such lawe of tox feture of goodes by outlagarye in the spirituell lawe.

Englander The. viichapitre

Endent / The thyrde grounde of the lawe of Englande ftanbeth pppon by: uerle general cultomes ofolbe tyme bleb throughe all the realme / whiche haue Sen accepted and approued by our foues raygne loide the king and his progenitours and all there lubiettes. And bycaule the lapo cultoines be neyther agaynft the lawe of god/ noz the lawe of reafon / and haue ben taken to be good and necels farve for the comon welth of all the realme. Thee: toze they haue opterned the ftrength ofa lawe/in fo moche that he that both agaynft the both agaynft Juffyce . Ind thele be tho cuftomes that propiely be called the comon lawe Ind it fhall alway be be termpned by the Jultrees whether there be any fuche generall euftome of nat and nat by.rii.men. Ind of thefe generall cultomes a ofcertapne pans spples that be called margines whiche also take effette by the olde cultome of the realme / as Chall

appete in the chapitre nerte folowinge dependeth most parte of the lawe of this realme. And thereoze our soueraygne lozde the king at his Lozonacion among other thinges taketh a solempne oth, that he chall rause all the customes of his realmestaythe fully to be observed. Too dource, I play the

theme me fome of thele generall cultomes.

Student / I will with good will and frafte I Chall Chewe the howe the custome of the realine is the very grounde of dyners courtes in the realme that is to fave of the Chauncerpe of the kynges Benche ofthe comon place , and of the Efcheket/ the whiche be courtes of recorde bycaufe none may fot as Juge in tho courtes: but by the kynges let: ters patentes. And thefe courtes have dyuers auc: torpties wherof it is nat to treate at this tyme. Dther courtes there be alfo only grounded by the sustome of the realme that be of mothe less audo: eptie then be the courtes byfore reherfed as in cues epfhyze within the realme there is a courte that is ealled the Countie and a nother that is called the Shirvffes torne / and in enery maner is a courte that is called a Courte boron. And to enery fapre and market is incodent a courte that is called a courte of Bypowders. And though in Come fatud is made menfron Comtome of the fand courtes, pet nevertheles of the forft inftytució of the laid courd' and that futhe courtes thuld be there is no flatute nor lawe wrytten in the lawes of Englande. Ind Co all the grounde and begynnyng of the land court depende byo the cultome of the realine, the whiche

euftome it of to hyghe audozytie that the faid cour tes ne their autorites may nat be alteredine their names chaunged without Barlyament .

T alco by the olde cultome of the realme all men thall fue to; iuftyce/ a to; they; enght in the kynges touttes and none Chalbe put to answere no, be iu:

ged but after the lawe of the realme .

Talco by the old custome of the realme the eldelt fone is only hepre to his auncelter i and if there be no fonnes but doughters / then all the doughters Chalbe hepre , and lo it is of fulters + other kynnels women. Ind ifthere benother Cone Doughter b20 ther not fulter, then Chall the enherytauce Difcede to the pert kynnesman oz kynneswoma of the hole blode to hom that had the enherptance of home ma ny degrees to euer they befro hi/ and if there be no hepre general nor (pecyel/the lande Chall eschete to the lorde of whome the lade is holden. (atto by the olde cultome of the realine lades (hal neuer als lede not byfrede fro the fone to the father or mother nos toany other auceftre i the right lyne but it fhat rather elchete to the lorde of the fe. Tallo ifan alg ene haue a fone a after is made benyapn : a haue a nother fone a after purchafeth lades and dpethi the ponger fone that enherpte as heppe a nat the eldelt. Talco if there be this bretherne a the involett bio: 1. 1.

ther purchafe landes & dyeth without heire ofhis bo by the eldelt brother that inherit as hepre to hom ! nat the yonger brother. T Blio iflades infeliple bill. a tede to a man of the pte of histather and he dreth pitiout hepze of his body that inheritance that

The feupnth

Discende to the nexte hepze of the parte of his father And if there be no suche hepzes of the parte of his father, then the lade shall eschete to the lozde of the fee. And shall nat go to the hepzes of the partie of his mother, but if a man purchase landes to hom and to his hepzes and dope without heire of his body as is sayd byfoze, then that lande shall dyscende to the next hepze of the parte of his father if ther be any: and is nat/then to the nexte hepze of the parte of his mother.

without heyze ofhis body, the lande chall dycende to his vacle, and chall nat accende to his father as is land bytoze, but if the father have a sone though it be many peres after the deth of the elder brother pet that sone chall put out his varie a shall enione the lande as heyze to his elder brother for ever.

Talso by the custome of the realme the childe that is borne byfore spouselles is basterde and that nat enhervte.

Talco the enfrome of the realme is that no mas ner ofgoods nor chatelles reall nor parsonell chall never go to the heure / but to the executoures or to the ordenarie or admonostratours.

Also that the hulbande shall have all the chastelles parsonalles that his write had at the true of the spouselles or after, and also chatelles reall if he oner line his write, but if he sell or grue away the chatelles realls and dre by that sale or grite the intereste of the write is determined a els they shall remarks to the write is determined a cls they shall remarks to the write is determined.

of his wrfe wherof he was scaled i dede in the ryght of his wrfe duryng the spouselles in fe or in se tarle generalistor terme of his lyse: if he have any thylde by her to holde as tenaunt by the curtysye of Ensglande and the wrfe shall have the thyrde parts of the inhery taunce of her husbande wherofhe was seased in dede or in lawe after the spouselly. To, but in that case the wrfe at the doth of her husband must be of the age of ir. vere or about or els she shall have no downe. I Doctoure, what if the husbande at his deth he withit he age of ir. vere. I Studet,

I fuppofe the thall vet haue her dower.

(T 31fo the olde lawe and cuftome of the realme is that after the Dethe ofeuery tenaunte that holdeth his lades by knoghtes Ceruvce the lozde Chall haue the warde and marvage of the herze tyll the herze tome to the age of rrivere: Ind ifthe hepze in that tafe be of full age at the beth of his aunceftre, then he Chall pape to his loade his relvef whiche at the co mon lawe was nat certapne , but by the flatute of Magna carta / it is put in certapne : that is to fap tor cuery hole knughtesfee to pay a. L. Chyllynges. Ind for a hole baronve to pave a hondred marke for relvet. Ind for a hole erledome to pave a. C. tie and to after the rate. And if the henze of fuche a tez naunte be a woman and Che at the Deth of her aun ceftre be within the age of xiiii. veres , then by the comon lawe Che Chuide haue ben in warde only toll rifit vere , but by that Catute of wellingnfter the exite in suche case the chall be in warde syll xvi-

The feuenth

pere. Ind if at the dethofher auncelter the be of the age of xiiii. pere of about the thalbe out of warde, though the landes be holden of the kyng. Ind the the thall pape relyef as an heyre male thall.

Also of landes holden in locage if the aunceltre dye his hepte beyng within the age of xiiii. peres the next frende of the hepte to whome the enhery: taunce may nat dyscende shall have the warde of his body and landes tyll he shall come to the age of xiiii. pere / and then he may entre / And whan the hepte cometh to the age of xxi. pere / then the gardeyn shall yelde hym accompte for the profytes therefor hym recevued.

Double his rent to the lorde the pere folowynge the double his rent to the lorde the pere folowynge the deth of his aunceltre / as if his aunceltre helde by rilid. rent/the hepre in the pere folowyng (hall pay that. ril. d. for his rent/ and other. ril. d. for his reslyefe. And that relyefe he mult pay thoughe he be

within age at the beth of his aunceltre.

Talco there is an olde lawe and cultome in this realme that a freholde by way of fettemet gyfte, or lease passeth nat without lyuerey of leaso be made byo the lande according though a dede of fettemet be therefinade and delyuered: but by way of surrendre partycyon and eschaunge a freholde may passe without lyuerey.

Talco if a man make a wyll of lande wheroshe is scaled in his demesne as offeethat wyll is voydet but if it had stande in testes hades it had ben good. And also in London suche a wyll is good by the

callome of the cytic ifit be intowled.

(Allo alcase for terine of peres is but a chatell in the law a therfore it may palle without any levery of season, but otherwyle it is of a state for terme of lyfe for that is a freholde in the lawe, and therfore

lyuerey muft be made therof.

(T 310 by the olde cuftome of the realme a man may dyftrepne to; a rent ferupce of comon ryaht. And alfofor a rent referued byon a gyfte in tayle, a leafe terine oflyfer of yeres and at mylle in fuche cale the lorde may biltrepne the tenates beelles as foon as they come bpo the groude / but the breftes offraugers that come i but by maner ofan efcape/ he may nat biltreyne tyll they haue ben leuat and couchant bpon the grounde : butfo: Dette bpon an obligació noz boo a cotrade/ nozfoz accopte ne vet toz arerages of accopte/noz foz no maner oftrewas reperacios noz luche other no ma may diffrene Tallo by the olde lawe & cultome of the realme al plues that Chalbe forned in any courte of recorde withi the realine creept a fewe/wherof it nebeth nat to treat at this tyme/mult be tried by, rif. fre & law full me of the vilne that be nat ofaffintte to none of the pties. Ind in other courd that be nat ofrecoade as i the coutie courte baro hudzed and fnche other like they thalbe tried by the oth of the pties a nat o therwife onles the pties affet that it Chalbe tried by the homage. And it is to be noted that baros ; all prers of the realme be excepted out of fuch triallis if they wol: but if they wol wolfully be twome theris foe lap it is no erronr: thei mav if thei wol haue a writte out of the chaucerie directed to the Shyaple

The lenguth

comaundrug hom that he Chall nat impanel them byon no enquelt. And of this that is land befoze it appereth that the cultomes afoze lapbe noz other lyke bnto thein/ wherofbe bery many in the lawes of Englande can nat be proued only by reason: for howemay it be proued by reason, that the eidelt fone thall enhervte his father and the vonger to have no parte or that the hufbande thall have the hole lande for terme of his lyfe as tenaunt by the curtelve in luche maner as byfore appereth. Ind that the wyfe (hal have only the thyzde parte in the name of her dower / and that the halbande fall haue all the goodes of his mofe as his owne. Ind that if he dee lyung the wyfe , that his erecutours thall have the goodes and nat the mote. All thefe and fuche other can nat be proued only by reafon that it fhulde belo and no notherwyle all thoughe they be reasonable and that suffreeth in the lawe. Ind to a flatute made agaynft fuche generall cuf: tomes ought to be oblerned.

fon but a lawe of propretye is not the lawe of rea fon but a lawe of custome how be it that it is kepte and is also ryght necessarye to be kepte in all realmes and among all people and so it must be nome bred amonge the generall customes of the realmed and it is to be understande that there is no statute that treateth of the begynning of the sappe custor mes in ewhy they shulde be holden sor lawe. And therfore after the that be lerned in the lawes of the realme is the only and suffreyent auctorytye to them in that behalfer

but I pray the theme me what doctours holde there that is to say whether a custome only be suffreent audorptie of any lawe. To doctours holde that a lawe grounded von a custome is the most suery lawe, but this must be alwayes voders sande that suche a custome is nother contrarye to the lawe of reason, nor to the lawe of god. And nowe I pray the shewe me somwhat of the mary: mes of the lawe of Anglade wherefthou hast made mencyon by sore in the, itis, chapitre. The budent, I will with good well.

Englande. The bill. chapitre.

Cubent, The.iiii, grounde ofthe lawe of En glande fandeth in dyuerfe paynciples that be talled in the lawe marymes / the whiche haue ben alwayes taken for lawe in this realmer fo that it is nat lawfull for none that is lerned to benve them for every one of thole marymes is luffrcient audo: eptie to hom felfe. Ind whiche is a marpine land whiche nat Chall a'wave be betermoned by the Ju: ges: and nat by.xii.men . Ind it nebeth nat to af: frane any reafon why they were fratte recepted for maxemes for it fuffpleth that thep be not agarufte the lawe of reason nor the lawe of god / + that they haue alwar be taken fog lawe. Ind luche marnines be nat onely holden for lawe but alfo other cafes lpke buto them , and all thonges that necestaryly followeth boon the same be to be reduced to toke

lawe. And therfare moft comonly there be affengs ned fome reafons oz cofpberacion why fuche mary ines be relonable to the itent that other cales loke may the more coueniently be applyed to the. And they be of the fame ftrength and effette in the lawe as fratates be / And though the generall cuftome ofthe realme be the Grength & waraute of the lapo marymes as they be of the general cultoines of the realme ; pet byfaule the land generall cuftomes be in maner knowe thorugh the realine as well to the that be vniernyd as lernyd / and mape lyghtly be had a knowen and that with lytell ftubp. Und the fago marpmes be only knowen i the konges courd or amonge them that take greate fuby in the lawe. ofthe realme. Therfore they be fet in this writyng for feuerall groudes & he that lyfteth may to accopt the or ithe well he may take them for one grounde after hispleacure, of whiche magnines & Chall bere after Chewe the parte :

I feite there is a maryme that Elcuage bnier:

tayne maketh brigghtes ferupce.

I Allo there is a nother maryme that Elcuage

terterne maketh focage.

Also that he that holdeth by castell garde / hols beth by knyghtes scruyce, but he holdeth nat be es cuage/ And that he that holdeth by .rr.s. to the garde of a castell holdeth by socage.

I difo there is a maryine that a dylcent taketh

away an entre.

Tallo that no preferipcio i lades maketh a right.
Tallo that a preferipeyon of rent and of profetes aprendre out of lande maketh a ryght.

(alfo that the limitació of a preferipció generals iy taken is from the tyme that no mannes mynde

renneth to the contrarpe.

Miso that allygnes maye be made bpon landes gyuen infector terme of lyfe / or for terme of yeres though no mencyon be made of allygnes: and the same lawe is of a rent that is graunted but others wyse it is of a warantye and of a covenaunte.

Talto that a condycion to anopde a freholde can nat be pleaded without dede, but to anopde a gylte

of a chatell it may be pleaded without bebe.

Allo that a release of a confyrmacyon made by hym that at the tyme of the release of cofyrmacyon made had no ryght is boyde in the lawer though a ryght come to hym after except it be with waranty and the it shall barre hym of all ryght that he shall

haue after the warrauntve mabe.

Dependeth in accyon can nat be gruen no; grann: ted to none other but onely to the tenaunte of the groude/of to hom that hath the reverció of remaiz de of the same lande. Also that in an accyon of dette voo a cotra de the belinay wage his law but otherwyse it is voo a lease of lades to time of percs of at wyll. Also that is an exigent in case of felomie be awarded agapust a mathe hath therby softh with softeyted his goods to the kyng. Also if the some be attended in the lyse of the father after he purchaseth his chartour of pardo of the kyng. a fit the sather deth, in this case the lade shall eschete to to the logde of the fee in so moche that thoughe he

hane a yonger brother, yet the lande thall not dyte cende to hym for by the attaynore of the elder brother the blode is corrupte, and the father i the laws

Dreth without hepze.

Of his house and dreth: in that case thoughe his sue cessoure have ryght to the lande pet he may nat entre but he must take his account hat is appoyn: ted hom by the lawe.

Tallo there is a marpine in the lawe that if a vil: lavne purchase landes and the lorde entre, he shat enione the lande as his owne; but if the vyllapne alpene byfore the lorde entre, that algenaryon is

good and the fame lawe is of goodes.

Also is a man stele goodes to the value of rii. de or aboue it is kelonge and he shall dre for it And if it be under the value of rii d. then it is but petit larcynne and he shall nat dre for it but shall be or thermale punyshed after the dricrection of the Jurges excepte it be taken fro the parson, for it a man take any thrng: howe lytel so ever it be fro a mans parsone felchously it is called roberge and he shall dre for it.

Talfo he that is arevned roon an Indutement offelonge that be admytted in fauoure of lufe to that lenge. reroi Jurrours pereintozyly, but if he chale: ge any aboue that nombre the lawe taketh hom as won that hath refused the lawe bycause he hath restuled three hole enqueltes and therfore he shall due; but with cause he may chalege as many as he hath cause of chalenge to. And furthermore it is to be

pnder:

understande that luche paremtozpe chalenge Chall nat veadintited in appeie bycaule it is at the furte

ot the partye.

(Blothe lande of cuery man is in the lawe en: cioled from other thoughe it ige in the open felde. Ind therioge if a man do a treipas therin the wart

thall be quare claufum fregit.

41 Allo that rentes/ comons of pafture of turbary rcuercyons remayndies / noz Cache other thynges whichelpenat in manuell occupacyon may nat be gyuen noz grauted to none other without waityng. allo that he that reconcreth , Dette og Damages in the hynges courte by luche an accoon i wherin a Lapias lage in the procelle may withi a pere atter the recouere haue a Lapias ad latiffaciendum to take the body of the Defendante and to compt hym to papion toil be have payde the bette and bainas ges : but if there lape no Lapias in the fpill accion then the playntyte Chall haue no Lapias ad fatifa faciendum/but mult take a fieri lacias o; an Gles git within the vere or a Scire facias after the vere if he well.

Alfo if a relcale or cofyzmacyon be made to him that at the tyme of the release made had no polleffe on in the lande. aci the release or confyamacpon is boyde ercept certagne cales as to a bouchge & cers tavne other whiche nede nat here to be remebled. Tallo there is a marpine in the lawe of Englade that the kong may billeale no man, ne that no ma may diffeate the kyng, ne pull any revereyon or re

maynoze out of byin.

Thetypu Dya.

Mane that notecholde may be gruen to the hing ne be dervuied from him, but by mater of recorde.

in Engiade that no ina thulde have a weit of erght but by specyall supte to the kynge Andsoz a spine to be made in the Lhauncery for it but the maryines be chaunged by the statute of Magna sarta the, chapitre where it is sayd thus. Aulli negabinus nulli vendemus rectum vel insticiam. And by the sayd wordes nulli negabinus a manihall have a were of eyght of course in the Chauncery without suping to the kyng soz it. And by the wordes shull vendemus he shall have it without syne. And so many tymes the olde maryines of the lawe be chau

ged by farutes.

Talfo though it be reasonable that for the many totoe dynersyties of acepons that be in the lawes of Englande, that there shulde be dynersyties of processe as in reale acryons after one maner, and in parsonali acepons after another maner, yet it can not be proned metely by reason that the same processe ought to be had and none other, for by statute it myght be altered. And so the grounde of the said processes is to be referred only to the maximes and ensomes of the realme. And I have shewed the these maximes before reherced not to the intent to shewe the specially what is the cause of the lawe in them, for that wolde aske a greate respote, but I have shewed the only to the intent that thou maps percegue that the sayde maxymes and other lyke

may convenyently belet to; one of the groundes of the lawes of Englande, moreover there be dyners eales, where I am in doute whether they be only margines of the lawe of that they be grouded prothe lawe of reason, wherin I pray the let me here those cases that thou meanest, and I shall make the answere therin as I shall se cause.

Dere after foloweth dyners cales wherin the Student dowteth whether they be only imargines of the lawe of that they be grouded vpo the lawe of reason. The.ir. chapitre.

Eudent/ The lawe of Englande is that
if a man comaude a nother to do a trespaller he doth it that the comaudoure
is a trespaller. And I am in doute when
ther that be oncly by a margine of the
lawe, of that it be by the lawe of reason.

Tallo Jain in doute bpon what lawe it is grous bed that the Accessory Chall nat be put to answere before the pryncypall. 3c.

Alfo the lawe is that if an Abbot bye a thyng that cometh to the vie of the howle & dyeth that his lucz cessours shalbe charged: & I am somwhat in doute byon what grounde that lawe devendeth.

Also that he that hath possessio of lande though it be by discason hath ryght against all men / bus against him that hath right.

Theteja Tya.

Cailo that ifan accion reall be fued agaynft any man that hath nothyng in the thyng demaunded

the wipt fhall abate.

Alco that the algebracion of the tenaunt no; his entre in to religion, or ifhe be made a knyghte, or if the be a woman and take an hulbande hanging the writ: that the writ shall nat abate.

Tame lande come in to one mannes hande of lyke eftate and lyke fuertye of title the rent is extynde.

Talfo it lande dyscende to hym that hath ryghte to the same lande betoze: he chalbe remytted to his better tytle if he wyll.

C allo if two tytles be concurrant together / the

elbelt tytle (halbe preferred.

e allo that every man is bounde to make recom pence to; luche hurte as his beeftes thall do in the to; ne o; graffe of his nerghbour though he knowe

nat that they were there .

Also if the demandaunt opplayntyffe hagyng his wit wyll entre in to the thyng demanded his with that abate. And it is many tymes very harde and of greate difficultie to knowe what cases of the lawe of Englande be grouded vpon the law of reason and what vpon the custome of the realme: and though it be harde to discusse, yet it is very necessary to be knowen so, the knowlege and partyte reason of the lawe if any mathynke that these cases before reherced be grounded vpon the lawe of reason, then he may referre them to the syst grounder of the lawe of Englade whiche is the lawe of reason of the lawe of Englade whiche is the lawe of teason.

wherof is made meneyon in the. v. chapitre. Ind if any man thynke that they be grouded bpon the lawe of cultoine : then be may referre them to the marymes of the lawe / whiche be affegned for the thyide grounde of the lawe of Englande : wherof mencyon is made in the vill, chapitre as befoze ap pereth. [Doctoure / But I pray the theme me by what andorptie is it proued in the lawes of En: glande that the cates that thou halte put befoze / and fuche other whiche thou callel maximes ought nat to be benyed but ought to be taken as mary: mes for fyth they can nat be proned by reafon as thou agreeft thy felfe they can nat: they may as leghtly be denped as affermed onles there be fome luffrepet audorptie to approue them. (Studeti Many of the cultomes and marpines of the lawes of Englande be knowen by the ble and tuftome of the realme to apparatty that it nebeth nat to haus any lawe written therof for what nedeth it to haue any lawe written that the elbeft Cone Chall enberite his father, or that all the doughters Chall enherite together as one hepze if there be no lone / or that the hulbande Chall hauethe goodes and chatellys of his wyfe that the hath at the tyme of the Coufels or after / or that a baltarde fhall nat enherpte as hepze / or that executours thall have the disposperio ofall the goodes of thepre testatoure / and if there be no executours that the ordynarve Chall haue it/ and that the hepre that nat medle with the goodes of his aunceltre: but any partyculer cultome helpe bym. The other marymes & cultomes of the lawe

The nynth

that be nat so openly knowen amonge the people may be knowen partly by the lawe of reason: and partly by the bekes of the lawes of Englande calz led yeres of termes and partely by dyners recordes remaining in the kinges courtes and in his tresorie. And by a boke that is called the regestre and also by dyners statutes wherin many of the sayd customes and marymes be ofte resyted as to a dylygent serther wyll englently appears.

Englande. The.r chapitre.

glade flandeth in dyners perticuler customes bled in dyners countres/ townes/cyties/ and lozd: shyppes in this realine/ the whiche partyculer customes byeause they be not agaynst the lawe ofreation/ not the lawe of god / though they be agaynste the sayd generall customes of marpines of the law: pet neuertheles they stande in effecte and be taken for lawe/but if it ryse in questio in the kynges cours whether there be any such partyculer custome of not/ it shalbe tryed by xii. men/s not by the Juges except the same partyculer custome be of recorde in the same courte. Of whiche partyculer customes/ Thane herafter noted some for an ensample.

Thrifte there is a cultome in kent that is called Gauelkunder that all the bretherne Chall enhergte

together as fulters at the comon lawe.

Also there is a nother partyculer custome that is called Burghenglysthe, where the yonger sone thall enhergte byfoze the eldest, and that custome

is in Aotonghame.

Also there is a custome in the crtie of London that fre ind there may by there testament invouled byqueth they lades that they be seased ofto whom they will except to mortmanne. And if they be creeping and fre men then they may also byqueth landes to mortmanne.

I alfo in Gauelkynde though the father be hans geb the Cone Chall enhervte, for theve custome is the

father to the bough the lone to the plough .

T Allo i fome courres the wof Chal hane the halfe of her hufbandes landes in the name of her dowig

as long as the lyueth fole.

I also in some countrey the husbande thall have the halle of the enherytaunce of his wate , thoughe

he have no yffue by her.

Talfo in some countrey an infaunte when he is of the age of.rb. pere may make a feffement: and the feffement good. And in some countrey when he can mete an elle of clothe.

Englande. The.xi.chapitre.

Sabent, The. vi. grounde of the lawe of Ens
glande ftandeth in douces statutes made by
our souerappne lorde the hong and his progenos
tours, and by the lordes pirotuall and temporall,

The eleupnth

and the comons of the hole realine in dyners par: lyamentes in luche cales where the lawe of reason, the lawe of god/ cultome/marpines, ne other grou des of the lawe Cemed nat to be luffycient to punyl: the eupil men and to rewarde good men . and 3 remembre nat that I haue lene any other grouns Des of the lawe of Englande: but only thece that & haue befoze remembreb. T furthermoze it appe: reth ofthat I have land before that oft trines two or thre groundes of the lawe of Englande muft be ionned together, or the playntiffe can open and be clare his ryght/ as it may appere by this crample. If a man entre in to a nother manes lade by force/ and after maketh a feffementfor mayntenaunce to Defraude the playutyffe from his accyon . In this cafe it appereth that the faid bulawfull entre is p: bybit by the lawe ofreason, but that the playntiffe thall recouer treble damages that is by reason of the Statute made in the. viii. pere of kyng Denry the. bi. the.ir chapitre. And that the bamages Chal be leffed by. rii, men that is by the cuftome of the re alme. Ind to in this cafe thre groundes of the lawe of Englande mayntene the playntiffes accyon . Ind foit is in dyners other cafes that nede nat to be remembred nowe. And thus I make an ende for this tyme to fpeke any ferther of the groudes of the lawe of Englade. [Dodoure/ 3 thanke the for the greate payne that thou hafte taken therin / neuertheles for as moche as it appereth by that thou halt faid before that the lerned men of the law of Englande pretende / to verifye that the lawe of Englande wyll nothyng bo, ne attempte agaput the lawe of reason, not the lawe of god, I pray the answere me to some questyons grounded upon the lawe of Englande, howe the lawe may stande with reason or consevence in them. I Student, But the cases and I shall make answere therin as well as I can.

The fyste queltyon of the Dodoute / of the lawe of Englande and con: screence. The.rii.chapitre.

Dadoute/ I have harde laye that if a man that is bounde in an oblygació pay the money but he taketh no accauytance or if he take one and it hap peneth him to lese it that in that case he shalbe compelled by the lawes of

Englande to pave the moncy agayne / and howe may it be fayd then / that that lawe standeth with reason or consepence: for as it is grounded upon the lawe of reason that dettes ought of ryght to be payd / so it is grounded upon the lawe of reason as me semeth that whan they be payde he that pay eth them shulde be discharged. [Student/fyrst thou must budersande that it is not the lawe of Englande / that if a man that is boude in an obly garyon pay the money without acquytaunce or it he take acquytauce & lese it: that therfore the law determineth that he ought to paye the money efte sones / so; that lawe were bothe agaynst reaso and

consevence, but trouth it is that there is a generall marpinein the lawe of Englade, that in an accom of Dette fued byon an obigacion the Defendaunte that nat plebe that he oweth nat the money ne can in no wpie discharge hpin felte in that accom / but be haue acquetaunce or tome other warteng fuffys event in the lawe or Come other thong lyke wytnels fonge that he bathe payde the mouey / and that is ordanned by the lawe to anopoe a greate incoue: myece that els myght happen to come to many peo ple, that is to fay that every man by a nude parol and by a bare auerment fhulde anoyde an oblyga coo, wherfore to anoyde that incouenvence the law hathe ordanneth that as the Defendaunte is char: ged by a fuffrevent wavtyng that to he muft be dif: charged by fuffyevent waytong: or by fome other thong of as hogh audorptic as the oblogacoon is. and though it may tolowe theropon that in foine partreuler cafe a man by occaspon of that general marvine may be copelled to pay the money agayn that he parde before : pet neuertheles no defaute can be therfore allygned in the lawe / for lyke as holf: enakers of lawes take hede to luche thengs as may o Softe talle and bo moit hurte among the people ra: ther then to partveuler cales : fo in lphemple the ge nerall groudes of the lawe of Englade hebe moze/ what is good for many then what is good for one fonquier persone / and bocause it Chulde be a hurte to many ifan oblogacron Chufo be fo loghtly anop bed only by worde. Thereore the lawe Speepally prenenteth that hurte buder fuche maner as before

appereth / And yet intendeth nat not comandeth nat that the money of ryght ought to be payde as gayne / but letteth a generall rule whiche is good and necessary to all the people and that every ma maye well kepe without it be though his owne destaute and if suche detaute happen in any parsone, wherby he is without remedve at the comon lawe, pet he may be holpen by a sub pena, and so he may in many other cases where consepence serveth to him, that were to log to reherce nowe. And modour, But I pray the shewe me underwhat maner a manay be holpen by consepence. And whether he shall be holpen in the same courte of in an other.

Student / Bycause it can not be well declared where a man shalbe holpen by consequence i where not: but it be typs knowen what cosequence is: there so bycause it parteyneth to the mod properlye to treate of the nature and qualytye of consequence therefore I praye the that thou walt make me some breefdeelaracyon of the nature and qualytye of sections as well as I can. I Dodoure / I wall with good wall do as thou says and that I shall save of consequence I shall says the what sinderess is / i then what reason is is the what so sevence is. And howe these the dyster among the selse I shall somewhat touches

Twhat finderelis to

Ddoure! Sinderelis is a naturalt pomer ofthe foule, and is ener in the hyghelt part therof, mourng and ferryng it to good, & abhorong eupli. And therfore finderelis ne ner Conneth not erreth. Ind this linderis our lotde put in man to the intent that the oroze of thenges fhull be obserued for after Cepnt Deonyle the wil: Dome of god iopneth the begynnyng of the Ceconde thynges to the laft of the fyalt thynges / for Angell is of a nature to bnberftande without ferchong of reason: and to that nature man is iopned by fyn: derelis, the whichelinderelis may nat hollye be er tynded nevther in man ne vet in dampned foules: But negertheles as to the vie and exceriple therot it mape be lette toz a tyme epther thorughe the Darkenes ofpgnozaunce / 02 for budifcrete Deleta: spon or for the barones of oblivnacye; Epile by the Darkenes ofpgnozaunce linderelis may be let that it Chall nat murmure agaynft eurli bycaule be be: leueth empli to be good, asit is in herptykes the whiche whan they dre for the wyckednes oftheyr er rour bylene that they due for the very trouth of the tanth. Ind by budifcrete beledacyon/finderelis is fointyme fo oner laybe that remozee oz grubge of consevence, for the tome can have no place. for the hardnes of obstynacye sinderesis is also let, that it may nat frare to goodnes asit is i bapned foules that be to obfinate in eugli, that they may never be enclyned to good. And to thoughe linderelis may be land to that point extende in dampned fonles: pet it may nat be fayo that it is fully exticte

to all intentes for they always murmure agaput the eupli of the payne that they fuffer for fynne. And fo it may nat be fand that it is pnyuerfally/ and to all intentes and to all tymes extynde. and this linderelis is the begynnynge of all thynges that may be lerned by fpecularron of flubye. and invniltreth the generall groundes and pynipples therof. And alfo of all thynges that are to be Done by man an erample ofluche thynges as may belet ned by fpeculacyon appereth thus: finderelis laith that every hole thyng is more then any one parte of the fame thyng. Ind an example ofthinges that are to be done, or nat to be done is where linderis fayth no empli is to be bone but that goodnes is to be done and folowed and fuche other. And therfore linderelis is called by fome men the lawe ofrealou tor it mynyftereth the pryncyples of the lawe of rea fon , the whiche be in enery man by nature in that be is a reconable creature.

De reason, The, riiii, chapitrel

O doure / what the fyill ma Adam was create he recepted of god a dowble ive that is to lay an outwarde ive / wherby he myght le vylyble thym ges / and knowe his bodely enemyes and elchewe them. And an inwarde ive / that is the ive of reald wherby he myght le his spyrytuell enemyes that syghteth against his soule and beware of them. And among all gyttes that god gave to man / this syste of reason is the most noblest / for therby man

precelleth all beftes, and is made lyke to the big uptie of aungelles Dilcernyng trouth from fallhebe and envil from good / wheeloze be goth faree from that effecte that he was made to when he taketh no hebe to the trouth or wha he preferreth envil before goob. Ind therfore after Dodoures reafon is that power of the foule , that difcerneth betwene good & empli / s betwene good and better comparynge the one to the other: the whiche also thewforth vertues loueth god/ and flyeth byrcs. Ind reafon is talled englitarle and good , for it is conformable to the will of god and the fort thing a the fort rewie that all thonges mult be ruled by / is the woll of god & reafon that is nat ryghtwyle noz ftrapte : but that Is favb culpable is other bytante Che ingeth whan the is decepued with an errout that myght be ouer come, or els through her prode of flouthfulnes the Equrecth nat for knowlege of the trouth that ought to be enquered. Allo reason is beupded in to two partes, that is to cay in to the hygher parte, and in the lower parte. The hygher parte hebeth henes ly thynges and cternall. Ind reaconeth by heuely lawes 1 or by henenly reasons what is to be bone & what nat to be bone. Ind what thonges god coina Deth' & what he prohibiteth. Ind this hygher parte ofreafon hath no regarde to transptorpe thonges/ or tempora! thonges : but that fomtome as it were by maner of councepli the brengeth for the henenly reasons to ordre well tepozall thonges. The lower parte ofreafon worketh moft to gouerne well tein: posall thenges, and the groundeth her reafons

moche vpon lawes of man/and vpon reason of ma wherby she concludeth that is to be done; that is honest a expedient to the comon welth or nat to be done / for it is nat expedient to the comon welth. And so that reason wherby I knowe god / a suche thynges as perteyne to god, by longeth to the hygical parte of reason. And that reason wherby I knowe creatures by logeth to the lower parte of reason. And though these two partes / that is to save the hygher parte a the lower parte be one in dedeand essence, pet they dyster by reason of they; work kyng and of they; office as it is of one seife iye: that some parte is to save the lower parte be one in dedeand essence. The lower parte be one in dedeand essence is the lower parte be one in dedeand essence in dedeand essence in dedeand essence in the lower parte be one in dedeand essence in deseand essence in dedeand essence in dessence in deseand essence in deseand essence

De consevence. The.rb.chapitre.

Odoure/ Chis worde consequence whiche in laten is called coscientia is copowned of this prospecion: cum/that is to say in englyshe: with and with this nowne icientia/that is to say in englyshe with this nowne icientia/that is to say in englyshe knowlege/and so consequence is as mothe to say as a knowlege with a nother thyng and consequence so taken is nothing els but an applying of any sequence or knowlege to some particular attentions. And so coscepence maye some particular attentions. And so coscepence maye some particular attentions nat erre/and of coscepence thus take doctours make many descripcyons/wheref one doctours say that coscepence is the sawe of our budgets dyng. I nother that coscepence is an habyte of the inyude

bifcerngng bytwyrt good and cupil. I nother that conference is the ingement ofreafon ingong on the partyculer ades of man , all whiche faynges agre in one effette / that is to Caperthat confepence is an aduall applying of any connyng or knowlege to fuche thonges as be done / wherupon it foloweth that byon the most partyte knowlege of any laws or connyng. Ind ofthe molt parfyte & molt frapte applyeng of the Came, to any patyculer acte: of ma foloweth the most parfete the most pure & the most belte confevence. End if there be defaute in know; ong of the trouth of fuche a lawe / or i the applyeng of the fame to any partyculer atte then therppon foloweth an errout / 01 Defaute in consepence / as it may appere by this erample, Sinderelis mynifte: reth a buvuerfal proncople that neuer erreth, that is to fay that an unlawfull thong is nat to be done And then it mygbt be taken by fome man that eue ep othe is bulawful bycause our lozde faith Mathi b. pe thatt in no mple fwere. Ind pet he that by rea fon of the fapt wordes well holde that is nat lawes full in no cafe, to fwere erreth in confepence, for he hath nat the parfote knowlege and vnderftabyng of the trouth of the land gofpel/noz he reduceth nat that fagng offcripture, to other fcripture : i whiche it is graunted that in fome cafe an oth may be law full and the caute why confepence may fo errei the Capo cale and in other lphe is bycaufe confepence is fazined of a certapne perticuler propolycyon or queltyon grounded vpon vnyuerfall rewles ogday ned for luche thynges as are to be done, and by: cance

tante a partpeuler ppolicion is nat knowen ofhim feite, but mult appere and be ferched by a byligene ferche oc reaco / tyerfoze in that ferche and in the co fepence that fhalde be formed ther bpon may hap: pen to be errour, and therbpo it is fayo that there is errour in confepence / whiche errour cometh eps ther bycaule he dothe nat allent to that he ought to affent pato: orels bycaufe his reafon wherby he bothe referre one thyng to a nother is biftepueb : for further Declaracion wherofit is to underftande that errour i cofcpence cometh. bii.maner ofwaves fortt is thorugh ignoraunce; and that is whan a man knoweth nat what he ought to bo / and what he ought nat to bo. Ind then he ought to afke cous tevil of them that he thynketh molt expert in that fepence wher pon his doute ryleth. Ind it he can have no coucevil/ then he mult holly compt hom to god. And he of his goodnes well to ordre hem that he woll laue hom frome offence. The feconde is thorugh neclygence / as when a man is neclygent to Cerche his owne colcièce, or to enquere the treuth ofother. The thypde is thorugh pryder as whan he wyll nat mehyn hym felte ne bylene them that be better and wpfer the be is. E be.iiii.is thorugh Con: gularytic as when a man foloweth his owne wyt / and well nat coferine hein felle to other norfolowe the good comon wayes of good men . Thetyfte is thorugh an inordynat affereyon to hyin feifer when by he maketh confepence to tolowe his befpre and to he caufeth her to go out of her enght courle . The fyrte is thorugh pulillany mytie wherby foine

Thetera Tya.

perfone brebeth ofte tymes fuche thynges as ofres ion he ought nat to Diebe. The bii.is thorugh per: plexitie, and that is wha a man byleucth bym felfe to be fo fet bytwyrte two fynnes that he thynketh it papolloble i but he thall falle in to the one / but a ma tan neuer be to proplexid in Debe/ but thorugh an errour in conference , and if he woll put awave that errour he Chalbe Delpuered. Eherfoze I prap the that thou welt alwayes haue a good confcience and if thou have fo , thou Chalt alwayes be mery/ and ifthone owne herte ecprone the nat thon fhalt alwayes haue inwarde peace. The gladnes of ryghtwpfemen is of god and in god / and thep; toy is alwayes in trouth and goodnes. There be mas ny byuerfptics ofconfcpence but there is none bet: ter then that wherby a man treuly knoweth bym felfe : many men knowe many greate hyghe and connyng thynges and yet knowe nat them felfe and he that knoweth nat hpin felle knoweth nos thong wele. Inb be bath a good and a clene con: fevence, that bath purptie and clennes in his berte erouth in his worde, and ryghtwylenes in his bede And as a lyght is fette in a lanterne that all that is in the house mave be sene therby : Co almyghty god hath fet conference in the inpodes of enery rea fonable foule as a lyght wherby he may difcetne & knowe what he ought to bo: a what he ought nat to bo. Thertoze for as moche as it behoueth the to he occupred in luche thringes as parterne to the lawe / It is necellatye that thou euer bolbe a pure and a clene tofcpence fpetpally in fuche thynges as concerne reftytucyon for the fynne is nat forgymen, but the thynge that is wjongfully taken awaye be reltojed . Ind I councepli the alfo that thou loue that is good and five that is envil / and that thou Do to a nother as thou woldelt fhulbe be Done to the and that thou bo nothing that thou woldelt nat that fhuide be bone to the . Chat thou bo no: thyng agaynft trouth / that thon lyne peafeablye with the nevabboure / and that thou bo iuffere to euery man as morbe as in the is. Ind allo that in enery general rule of the lawe thou bo oblerue and hepe equytie and itthou bo thus I trufte the lyght ofthy lanterne , that is thy conference Chall neuer be extentted. (Student, But I pray thechewe me what is that equytie that thou halt fpoken ofby foze / and that thou woldelt that I Chuide kepe . of Dodoure / I well with good well theme the Comwhat therin.

Opdereth all the partyculer circumstance ther to necessarye, the whiche also is tempered with the sweenes of mercy. And suche an equitie must alway be observed in every lawe of ma, a in every general rewise thereof, a that knews he well that said the Lawes court to be rewied by equipie. And the wyle masay is enat over moche ryghtwyle for the externe ryghtwylenes is extreme widg, as who saith if thou take all that the wordes of the lawe grueth the thou shalte somtome do agaynste the lawe.

The syste Dya.

D.ii.

and for the playmer Declaracyon what equite is thou Chair un berftande, that fpth the Debes & aces ofman / for whiche lawes ben ordanned happen in bruges maners infontige. It is nat pollyble to mate any generall rewle of the lawe / but that it no Chall fayle in Come cafe. and thertoze makers of la o. Imes take hede to fuche thonges as may often come ef end nat to enery partyculer cale / toz they coulde nturnat thoughe they wolde. And therfore to folowe the wordes of the lawer were in fome cafe both agapult inflyce and the comon welth: wherfore in fome cat fes it is necessarve to leue the wordes of the lawe / and to folowe that reason and fullyte requireth / and to that intent equptie is ordayned / that is to fare to temple and myttygate the rygoure of the lawe. Ind it istalled alfo by foine men Gpicaia. the whiche is no other thong but an excepton of the lawe of god , or of the lawe of reason , from the generall rewies of the lawe of man : when thep by reason of they generalptic wolde in any partreus ler cante inge agaput the lawe of god , or the lawe of reason / the whiche exceptpon is secretly unders thande in euery generall rewle of euery polytyue lawe. Ind fo it appereth that equytie taketh nat away the very roght, but only that that Cemeth to be right by the generall wordes of the lawe , noz it is nat ordayned agaynft the cruelnes of the lawe for the lawe in futhe cafe generallye taken is good in hom felle , but equotie foloweth the lawe in all particuler cales where ryght and inflyce requireth nat withfandringe a generall rewle of the lawe be

to the contrarge. Ind then he leneth and forfaketh the jugement of the lawe wherfore it appereth that if any lawe were made by man without any fuche excepton expressed or implyed it were manyfestig bnreafonable / & were nat to be fuffered / fog fuche cales myght come that he that wolde observe that lame thuld breke both the lawe ofgode the lawe of reafon. As if a man make anowe that he wpl neuer eate whyte meaters after it happenyth hom to com there where he can get none other meate : In this cafe it behoupth hym rather to breke his anowe the to byefor that particuler cale is ereeptyb ferretip from his general anowe by this equytre or epphay as is fapo byfore. Bifo if a lawe were mabe in a cy eye that no ma bnder the papue of deth Chuld open the gates of the cytye byfore the fonne tyfynge/pet if the cytygens byfoze that houre flepnge from their enempes come to the gates of the eptie / and one for fayurng of the cytysens openath the gates byfore the houre appoputed by the lawe pet he offendrth not the lawerfor that cale is excepted from the laye generall lawe brequetre as is farbe byfore and fo it apperpth that equitie rather foloweth that itent ofthe lawe then the wordes of the lawe: Ind I fup: pole that there be in lpkewple forme lyke enupties groundyd bpon the generall rules ofthe lawe: of the realme. I Student, pe verply wherofone is this. There is a generall probibyeion in the lawes of Englande, that it Chall not be lawfuil to no ma to entre the freholde of another without auctorrie ofthe owner or ofthe lawe but pet it is excepted ha

the fard probibetion by the lawe ofreafon:that if a man bayue beltes by the hyghe way aub the beltes happen to escape in to the come ofhis neyghboure/ and he to byong out his beattes that they Chuld bo no moze hurts : there be Chail intipfre that entre in to the grounde by the lawe. Blfo nat withfandyng the flatute of Cowarde the thygde made the .xxiii. pere of his revgne , wherby it is ozbapneb that no man bpon payne of impryfonemet Chuld gyue any almes to any valyant begger , that is well able to laboure pet if a man mete with luche a valyant begger in Co tolde a wether and Co lyght apparell/ that if he have no clother be that nat be able to coe to no towne to have fuccoure / but is lykely rather to dre by the way and be therfore grueth bym ap: parell to faue his lyle he fhalbe extuled of the faybe flatute by luche an excepcion ofthe lawe of reafon/ as I have (poken of. @ Doctoure/ I knowe well that he Chalbe excepted of the layb fratute by con: Sepence / a ouer that have greate rewardes of gob/ for his good dede but I wolde wet whether the p: epe Chalbe Difchargeb in the comon lawe by fuche an erceptyon of the lawe of realo or mat/for though pgnojaunce in byneible ofa Catute erenfe the pars tre agarnft god / pet as I haue herbe it ercufeth nat in the lawes of the ecalme, ne vet in the Chafts cerie as fome fap although the partie to whome the forfapture is gruen map nat with confepence leupe it. (Student) Merply by thy queltion thou halt put me la greate boute : whereoze I pray the gyne me artfprte therin to make the an anfwere but as I suppose for the tyme howbeit I wyll nat fully afferme it that he shuld well plede it for his discharge at the comon lawe: bycause it shalbe taken that it was the intente of the makers of the statute to excepte suche cases. And the suges may many tymes suge after the mynde of the makers as far as the lettre may suffre. And dyners other excepcios there be also from other generall groundes of the lawe of the realme by suche caupties as thou hast reme; beed byfore that were to longe to reherce nowe.

Todour, but yet I pray the to shewe me shortly soe parte of thy mynde under what maner a man may be holpen in this realme by suche equitie if he may not be holped in the same courte. I Student, I will with good wyll shewe the sommhat theriu.

In what maner a man Chalbe holpen by equyties in the lawes of Englande.
The .rvii, chapitre.

there be dyners ercepeyons from the generall groudes of the lawe of the realme by other realonable groudes of the fame lawe, whereby a man shalbe holpen i the tomon lawe, as it is of this generall grounde that is not lawfull for no man to entre upon a dyscent, get the reasonablenes of the lawe excepteth from

that grounds an infaunte that hath ryght : hathe Suffered luche a bylcent/and hym allo that maketh contynuell claying / and fuffereth them to entre/ nat withftandyng the byfrent. Ind of that exceptio they thall have augutage in the comon lawe / and to it is the flatute wherby it is prohybyte that cer: tarne partyculer tenauntes Chall bo no walte / vet ifa leffe tos terme of veres be mabe to an infaunte that is within veres of difereferon, as of the age of bi. 01 . bii. peres: and a ftraunger bo wafte in this eale : this infaunte shall nat be punyffhed for the walter toz he is ercepted and ercufed by the lawe of cealon. Ind a woman couerte to whome fuche & leffe is made after the conuerture fhalbe alfo byf: charged of walte by a reasonable maryme and cul toine of the realme / And for reparacyons to be ma De boon the fame grounde it is lawful toz Cuche partyculer tenauntes to cut bowne trees / to make reperaryons . And the caufe there as I Cuppole is for that the monde of the makers of the farb ella: tute (halbe taken to be that that cafe (bulbe be er: cepted, and in all thefe cafes the parties (halbe hol pen in the fame courte. Ind thus appereth that Comtyme a man may be excepted from the punyle Thement ofa ftatute by the lawe of reason Comtyme by a maryme of the lawe and Comtyme by the in: tent of the makers of the flatute. Ind it appereth alfo that a man fomtyine may plebe the fayb mat ters and exceperons at the comon lawe: but yet it is to understande that most eromonive where any thringe is excepted from the generall cultomes of

marymes of the lawes of the realme , by the lawe of god / 02 by the lawe of reason / the partie muste have his remedve by a wait that is called fubvena: If a fub pena lye in the cafe and ifno fub pena lye in the cale then be is bounde in consepence to res tozine it : but where a lub pena lyeth / and where nat it is nat our entente to treate at this tome. Und in Come cafe there is no remedre for fuche an equitie by way ofcompulfon/but all the remedye therin mufte be commptted to the confepence of the partye. (Doctoure/ But in rale where a fub pes na lyeth to whome Chall it be byzeded : whether to the inge or to the partie. @ Student / Itihail never be byzeded to the inge / but to the partye plentyffe / og to his attourney comaundring them by the lame under a certarne parne therin to be contayned that he procede no ferther at the comon lawe toll it be Determened in the honges chaunces eye / whether the plentpffe bath totle in confevence to recoure of nat Ind whan the pleyntyffe by rea: fon of fuche an iniuncepon leafeth to afke any fers ther processe: the Juges will in lykewise scale to make any ferther proceffe in that behalfe.

Dodoure / Is there any meneyon made in the

lawes of Englande of any fuche equytres.

Obtubent, Of this terme, equiptie to that itent that it is spoken of here; there is no incepon made in the lawes of Englande, but of an equiptie dirps uped byon certaine statutes meneyon is made many tymes in the lawe of Englande, but that equipte is all of an other effecte the this is, but of the effecte

of this equytie ! that we nowe weke of menepon is made many tymes / for it is ofte tymes arguyd in the lawe of Englande where fub pena lyeth: and where nat and davly bylles be made by men lets med in the lawe of the realme to have fub penas. Ind it is nat probibite by the lawes of Englander but that they may well boit to that they make the nat : but in cale where they ought to be made and nat for beraceon of the ptie: but according to the trouth of the mater . And the lawe well in many cales that there Chalbe fuche remedie in the chaun; cery byon byners thynges grounded byon fuche equeties . Ind then the loibe Chaunceller muft Order his confevence after the rewles and groudes of the lawe of the realme : in fo moche that it habe nat ben moche iconvenvent to have allvaned luche remeby in the Chauncervefor the vi. groude of the lawe of Englande / but toz as moche as no recorde remayneth in the hynges courd of no fuche byll ne of thewait of Cub pena that is Cupb ther boottherfore it is nat fet as a wecrail grounde of the lawe / but as a thong that is suffred by the lawe. I Dodours Then foth the partres ought ofreght in many cas les to be holpen in the Chauncery bpon fuche equp ties. It femeth that ifit were ozbayned by fatutet that there Chulde be no remeby opo luche equyties in the Channeerye | nozin mone other place ; but that every mater Chuld be ogbered only by the rem les and groundes of the comon lawe/that that that tute were agayult ryght a conference. [Student, I thynke the Came but I Cuppole there is no luche.

forrr.

EDodoure / Chere is a ftatute of that effecte as Juane herde fage wherin I wolde gladig here thy oppyngon. C Student, Shewe me what statute thou meanest , and I thall with good well fage as me thyuketh therin.

Dodoure be agannit confepence og nat.

Ddoure / There is a Catute mabe in the iiii.pere ofkyng Denry the.iiii.the.xxii.cha pitte that ingemetes gyuen in the kynges courtes/ (hall nat be eramoned in the chau cerpe/ Berlyament, no; els where / by whiche fa: tute it appereth that if any ingement be gruen in the hynges courtes agaynft an equyte o agaynft any mater of confevence , that they can be hab no remebye by t'at equytic/ for the ingement can nat be reformed without examphacyon and the examp nacyon is by the lapo ftatute prohybite / wherfore it Cemeth that the fayb fratute is agaynt cofcience/ what is the oppeneon therin. (Student/ Ifin: gementes gruen in the kynges courtes (bulbe be exampned in the chaucerpe byfoze the kynges cous cepil or in any other place the planntiff; o: bemait baud (huld feldome come to the effecte oftheva fute ne the lawe Chulbe neuer haue ende. Ind therfore to eschewe that icouenvence that fatute was made and though peranenture by reafon of that fratute foelynguler plon may happe to hane loffe. Reuer: theles the faid fatute is very necessarye to efcheme

many greate beracyons, and buinft expences that wolde els come to manye playntyffes that haue eyghtwyfely recouered in the kynges courtes. Ind it is moche more prouvded for in the lawe of En: glande that hurte not bamages Chulde nat come to many then to one . Ind allo the layde ftatute doth nat prohibite equptie / but prohibiteth onely the examphacyon of the jugem et for the elchewyng ofthe inconuenpence byfere reherced . And fo it le: meth that the layb fatute fanbech with good con: Sepence. Indin many other cales where a man both wrong pet he Chall nat be compelled by wave ofcompulipo to reforme it, tor many tymes it muft be lefte to the confevence of the partye / whether he wyl redzelleit oz nat. And in luche cale he is as wel bounde to redreffe it if he well faue his foule / as he were ifhe were compellable therto by the lawe as it may appere in byuers cafes that may be put bpon the faine. T Dodone I pray the pue foe of thole calesto, an example. (Stubent / If the Defen: dannte wage his lawe in an accoon of det brought bpon a true bette the pleyntyffe hath no meanes to come to his bette by wave of compulipon and pet the detendaunt is bounde in conference to pay him Blfo if the graunde Jure afferme a falle verdyte gynen by the petpe Jurye / there is na further res medge but the conference ofthe partye. Alfo where there can be had no luffpepent prouffe there can be no remedye in the chauncerpe / no more then there may be in the fpirituell courte. Ind bycaufe thou halt gruen an occafpon to fpeke of confepence / 3

Chapitre. Fo.xxxl.

wolde gladly here thy oppynyon where conseque chalbe rewied after the lawe and where the lawe shaibe rewied after consequence. I Doctour And of that mater I wolde lykewyse gladly here thy oppynyon specially in cases grouded byon the lawes of Englande: for I have herde but lytell therof in tyme paste, but before thou put any cases therof, I wold that thou woldest shewe me howe those two questyons after thy oppynyon be to be undersade.

that is to say where consequence shalbe rewled after the lawe.

The.rix.chapter.

Cubent, The lawe wherofmencyon is mabe in this queltyon : that is to lay where confep: ence Chalbe rewled by the laweris nat as me feineth to be understande only of the lawe of reason, and the lawe of god. But also of the lawe of man that is nat cotrary to the lawe ofreaton noz to the lawe ofgod but that it is superaddyd bnto them toz the better ozberyng of the comon welth: for fuche a law ofman is alwayes to be let as a remle in colepence fo that it is nat lawfull for no man to go fro it on the one fpbe ne on the other for fuche a lame of ma hath nat only the Grength of mannes lawe but als to of the lawe of realo/oz of the lawe of god/ wherot it is byryuied : fog lawes mabe by ma whiche haue retepued of god power to make lawes be made by gob. and thertoze confegence muft be ogbered by

that lawer as it mult be boot the lawe of god, and the lawe of realo. And ferthermore that lawe wher: of menevon is made in the latter ende ofthe chapi; tre prespoent / that is to Cap where the lawe is to be lette and for Caken / for conicpence is nat to be bn; Derftabe ofthe lawe of realo nos of the lawe ofgod for tho two lawes may nat be lefte / nozit is nat to be underfrande of the lawe of man that is made in pertyculer cafes, and that is confonant to the lawe of reacon/and to the lawe of god: and that vet that lawe Chalde belette for confepence , for of fuche a lawe made by man confepence muft be rewled as is fand byfoze : noz it is nat to be underftande of a lawe mabe by man comaundyng og probibytynge any thying to be bone that is againft the law ofrea Con of the lawe of god / for if any lawe made by man : bonde and persone to any thonge that is a: gapult the fapo lawes, it is no lawe but a corrupcy on and a manyfelt erroure . Cherfoze after them that be lerned in the lawes of Englande / the Card quellion, that is to far where the lawe is to be lefte for confepence is to be puberftanbe in byuers mas ners, and after byuers rewles : as here after Chall Commhat be touched .

Friste many volerned persones byleve that it is lawfull for them to do with good consequence all thronges , whiche if they do them they shall nat be punrished therfore by the lawe. And many thruke thus thoughe peraduenture the lawe doth nat war taunte them to do that they do , but onely whan it is bone doth nat for some reasonable conspoeracy of

Chapitre.

fortril.

punglishe hym that doth it, but leueth it only to his consequete. And therfore many persones do offe tymes that they shuld not do, and kepe their owne that that in conseque they ought to restore, where of there is in the lawes of Englande this case.

TEtwo haue a wood topntly , and the one of the felleth the wood and kepeth all the money hollye to hom Celfe : In this cale bis felowe (hall haue no remedye agaynt byin by the lawe, for as they wha theytoke the wood forntly put eche other fu trufter and were contented to occupy together fo the lawe fuffereth the to order the profptes therof according to the trul that eche of them put other in . End vet if one toke all the profptes i be is bounde in confcp; ence to reltoze the halte to his telowe for as the law grueth hom roght onely to the halfe lande, fo it gructh hym ryght onely in confevente to the balte profetes, and pet neuertheles it can nat be favd in that cafe , that the lawe is agaruft confevence , for the lawe neyther wylleth ne comaundeth that one fhulbe take all the profetes / but leueth it to they? conference fo that no Defaute can be founde in the lawe: but in bom that taketh all the profetes to hom felfe mave be allogned Defaute, whiche be is bounde in concepence to reforme if he woll faue bis foule / thoughe he tan nat be compelled therto be the lawe. And therfore in this rafe and other lyke, that oppingon whiche lome haue that they may bo with coffpence all that they Chall nat be punythed for by the lawe ththey boit is to be lefte for confep: ence/but the lawe is nat to be lette for coftrence.

Talfo it is taken by come ine : that the lawe mul be lette top colepence where the lawe both nat luttre a man to denye that he hath bytoze adezined by mater ofreco: de, ox for that he hath wolfully exclus bed hom feite therof for Come other caule, as if the doughter that is only heyze to yer father well fue lyuerep with her fufter that is bafterde in that cale, the that nat be after recepued to fay that her fulter is balterve In fomoche that if her fulter take haife the lande with her: there is no temedre againfte her by the lawe. Ind nomoze there is of bruers of ther ecopelles, whiche were to long to reherce nowe Ind pet the partye that maye take anauntage of Ciche an eltopell by the lawe is bounde in coftgence to forfake that anauntage (perpalipe if he were fo estopped by vanozauce, and nat by his owne know lege and affent / for though the lawe in suche cases gracth no reinedpe to hym that is elopped pet the lawe ingeth nat that the other hath ryght buto the thong that is in varyaunce bytworte thein.

This it is understade that the lawe is to be lefte for conseque of where a thyng is tryed and founde by verdet against the trouth for as well in the law Couple as Lanon: the lawe is that the sugment must be grue according as it is pleaded and tried tyke as it is in other lawes of where the sugment must be gruen according to that that is pleaded

and proued .

allo it is buderstäde that the lawe is to be lefte for collegence where the cause of the lawe dotheraster forwhan the cause of the laws both cease, the lawe also bothe cease in tonsepence.

I Alto it is buderitande where a lawe is grouded boon a prefumpeyon for if the prefumpeyon be on: treme / then the lawe is nat to be boiden in confep; ence. And nowe I haue thewed the fomwhat home that queltyon / that is to lay where the lawe Chaibe rewled after confegence. I pray the theme me when ther there be nat lyke byuerlytges in other lawes bytmprte lawe and confepence. T Dodoure, pes perply / very many wherof thou halte retyted one befoze / where a thrnge that is butreme is pleaded and proued / in whiche cafe ingement muft be gy= wen according as well in the lawe Lyuple as i the tame Lanon. And a nother cale is that if the hepre make nat his inuentozye / he Chalbe bounde after the lawe Lyuyle to all the betd thoughe the goods amount nat to fo moche. Ind the lawe Canon is natagaphit that lawe / and yet in confevence the hepze whiche in the fawes of Englande is called an executoure is nat charged to the dettes / but accos: bying to the value of the goodes. And nowe I pray the Chewe me some cales where consepence Chalbe rewied after the lawe. Estudent / I wyll with good wyll thewe the towhat as me thynketh therin.

Of here foloweth dyners cales where conscience is to be ordered after the lawe. The.rr.chapitre.

Student / The eldelt sone thall have and eniope histathers landes at the comon lawe in conseque (as he shall in the lawe. And in burghen glische the ponger sone thall eniope the sherytauce/

The test Tya.

and that in conference. And in ganelhynde all the fones fhall inherite the lande together as boughs ters at the comon lawe and that in consepence. And there can benone other caute allogned who consevence in the toalte case is with the clock biother / and in the feconde with the yonger brother / and in the thypoc cale with all the bretherne , but bycause the lawe of Englande by reason of byuers cultoines both lotyine give the lande hollve to the eldelt fone/Cotyme to the yongelt/s Cointime to all. Alfo if a man of his mere mocyon make a telle: ment of two acres of lande lyinge in two fenerall figues , and maketh ly uerey of featon in the one acre in the name of bothe / In this cale the feffe hath reght, but only to that acre wheroflyueter of feafon was made bycaufe be hathe no tytle by the lawe/but if both acres had ben in one Chyte be bab had good right to both. And I thele cales the dyner fytic of the lawe maketh the dynerlity in colcyence. allo if a man of his mere moryon make a feffe: ment of a maner & favil nat to haue & to holde. te. with the appurtenaunces in that case the feffe bath englit to the demelne landes and to the rentes , if there be atturnament and to the comons pertey: nong to the maner : but he hathe nother roght to the aduowions appenbauntif any be / nor to the bollepus regardant / but if this terme with thap: purtenaunces had ben in the bede , the feffe had had right in consevence aswell to the aduowson's and byllepnes / as to the refpbewe of the maner: but if the hyng of his mere mocpon grue a matter with the appurtenaunces, pet the done hath neys

ther ryght in lawe not consequence to the aduowsos of vyllegus. And the dynersytic of the lawe in these

cales maketh the bynerlytie of confcyence.

peldying to him and to his heyres a certaine of yere a reldying to him and to his heyres a certaine rent be pon conduction that if the rent be byhynde by .xl. dayes, ac. that then it shalbe lawfull to the lessoure and his heyres to rentre. And after the rent is be; hynde the lessoure asketh the rent according to the lawe / a it is not payd / the lessoure dyeth his heyre entreth. In this case his entre is lawfull bothe in lawe and coscepence/ but if the lessour had dyed by: fore he had beinauded the rent. And his heyre be: maides the rent/bycause it is not payde he retreth. In that case hisrentre is not lawfull nother i lawe nor in coscepence.

Tallo if the tenaunte in dower lowe her lande to be byfore her come be rype that come in colciente bylongeth to her executours, t nat to hym in the re nerity on but otherwyle it is in confeyence of graffe and fruces. And the dynersytic of the lawe maketh

there allo the byner (ptie in confrente.

Milote a man lealed of lades in his demelne as of fee, bequetheth the same by his latte well to a nother, a to his heyres and dyeth. In this case the hepre natwithstanding the well hathe right to the lande in cosepence. And the reason is bycause the lawe ingeth that well to be dopde; as it is dopde in the lawe so it is boyde in consequence.

I Bilo if a man graunte a rente for terme of lpfe and make a leafe of lande to the Came graunte for

Thefyll Dya.

E. it.

terme of lyfe. Ind the tenaunte algenyth both in tee In this case he in the renercion both good type to the lande both in lawe and consequence and nat to the rentiand the reason is bycause the lande by that algenacyon is sozfete by the lawe to hym in

the revertoon and nat the rent.

el difaif a man haue two lones one before foonfel les and a nother af er (poufelles and after the fas ther byeth fealed ofcertaque landes. In that cale the ponger sone Chall enione the landes in this res alme as hepre to his father both in lame and cons sepence. And the cause is bycause the sone boine at ter spouselles, is by the lawe of this realme the be: ro hepre/a the elder cone is a baftarde. And ofthele rafes and of many other lyke in the lawes of Ens alande map be formed the alogisme of consevence or the true ingement of confepence in this maner, finderelis inpupfireth the major thus: Reghtwof: nes is to be done to every man vpon whiche maios the lawe of Englande inpupftreth the minor thus, the inherptaunce bylongeth to the lone borne after sponfelles and nat to the some borne before spoule! les , then consevence maketh the conclusion and Canth: therfoze the inherytaunce is in confevence to be avnen to the fone borne after fpoulelles. Indfo in other cales infrinte may be formed by the lawe the filogifine of the roght ingement of confevence ? wherfore they that be lerned in the lawe of the res aline far that every cafe where any lawe is orday: ned for the dysposperon of landes and goodes, whiche is nat againste the lawe of god , noz yet

against the lawe of realo, that that lawe brindeth all thein that be buder the lawe in the courte ofco: Cepence / that is to lay inwardly in his foule . And therfore it is foinwhat to marnapil that fpiritueil men haue nat endeuozyde them felle in tyme pafte to have more knowlege of the kynges lawes then they have done , or that they yet do , for by the pg: nozaunce therof they be ofte tymes vanozaunte of that I that Chulde order them according to right and fullpre as well conferning them feife as other that come to them to: councepil . Ind nowe for as moche as I have answered to the quellyons aswet as I can I pray the that thou wylte theme me thy opprayon in dyuers cales formed byon the laws of Englande wherin I am in boute/ what is to be holden in concevence. I Dodoure / Shewe me the quelepons ? I well fay as me thenketh therin.

Thefyste questvon of the Student. The .rri. chapitre.

of.xx. pere and hathreason and wyldome to governe him selfe selleth his lande, and with the money therof byeth other lande of greater value then the triffe was and taketh the profetes therof, whether may that infaunte aske his friste lande agayne in consequence, as he may by the lawe. [Dodoure, what thenkest thou in that question. [Student. We semeth that for as moche as the lawe of Englande in this artycle

is gronded byon a prefupeyon / that is to fay that infauntes comonly afore the be of the age of .rrt. peres be natable to gouerne them felfe : that get for as mothe as that prefumptyon fapleth in this infante that he may not in this cafe afte the lande agayne: that he hath folde to his greate auaun: tage as befoze appereth. (Dodoure/ Is natthis fale of the infante and the feffemet made therbpo if any were voydable in the lawe. I Student/pes verilye. @ Dodoure/ And if the feffe haue no right by the bargayne, not by the festement inade ther: bpon wherby faulde be than haue ryght therto as thou thynkelt. (Student/ By confepence as me thunketh for the reason that I have made before. Dodoure, Ind voon what lawe thulbe the con Erpence be grounded that thou (pekell of, foz it can nat be grounded by the lawe of the realme as thou halt faid the felfe. Ind me thenketh that it can nat be grounded byon the lawe of god / not byon the lawe ofrealo/fozfeffement noz totratt be nat grou ded byon nepther of tho lawes but byon the lawe of man. (Student After the lawe of propretye was ordarned, the people inpight nat courngently Ipue together without contractes, and therfoze it le meth that contractes be grounded boon the laws ofreacon , or at the lefte byon the lawe that is cal: led Jus gentium. I Dodoure, Thoughe cotrack be grouded upon that lawe that is called Jusgen tium bycaufe they be fo necessarye and fo generall amonge all people, pet that proneth nat that con: trades be grounded byon the lawe of reason, for

though that lawe called Jus gentium be mochene: cellarye for the people/pet it may be changed. And therfore if it were ordayned by fatute that there shulde be no sale of lande, ne no contracte of goods and if any were that it Chulbe be boyde fo that ene ry man Chulde contynue agli fealed of his landes and pollelled of his goodes, the Catute were good. And then if a man agaynfte that ftatute folde his lande for a fame of money:pet the feller myght law fully retergne his lande according to the fratute. and then he were bounde to no mozer but to repay the money that he recepued with reasonable expen ces in that behalte, and fo in lykewple me thynketh that in this case the infante may with good conseys ence reentre in to his tyalte lande bycaule the con: trade after the marymes of the lawe of the realme is bopbe for as I have berde the marymes of the lawe be of as great frength in the lawe as flatutes Ind so me thynketh that in this case the infante is bounde to no moze, but only to repay the money to bem that he folde his lande bnto with fuche rea fonable colles and charges as he hath fullarned by reason of the same. T Stubenti for this tyme I holde me contented with thy oppynyon.

The seconde questyon of the Student.

Sot lyte be impanelde von an inquelt : ther bon lefeth gaues and dyeth i whether may the ple

fues be leaved byon hym in the renercyon in con: Cepence as they may be by the lawe. @ Doctoure If they maye be leuped by the lawer what is the cause why thou boelt boute whether they may be le uped by confeyence. T Student i Forthere is a marpine in the lawes of Englande, that where two tytles ronne together / the clock tytle Chalbe pres ferred. Ind in this cafe the tytle of hyin in the res uercion is before the tytle of the forfetoure of the pls fues. And therfore I bonte fommhat whether they may be lawfully leuped. (T Dodoure/By that rea fon it feineth thou arte in Doute what the lawe is in this cafe / but that mufte necestaryly be knowen (for els it were in vapne to argue what consepence myll therin. @ Stubent / It is certayne that the lawe is fuche , and to it is lykewple if the hulbande forfete plues and dpe / tho plues thalbe leuged on the landes of the myte. (T Dodoure) and if the lawe beluche it lemeth that confepence is fo in lyke mple forfpth it is the lame that for executyon ofiuls tree enery man Chalbe ipanellyd whan nede reguy reth it femethreaconable : that if he wyll nat ap: pere that he thuid hane tome punyahement foz his nat apperaunce / for els the lawe Chulde be clerely truftrate in that poynte. Ind that payne as 3 have herde is that he Chail lefe paues to the hynge for his nat apperaunce: wherfore it femeth nat in: convenyent noz agapufte confevence thoughe the lawe be that tho plues thalbe leuved of boin in the tenerepon / for that condpepon was fecretipe bns berfande in the lawe to palle with the leafe whan

the lease was made. And therfore it is to; the less to beware and to prevent that daunger at the mas king of the lease, or els it shalbe aiuged his owne defaute, and than this pertyculer maxpine, where by suche yourses shalbe leaved upon hym in the resurcyon is a ptyculer exceptyon in the lawe of Ensiglands from that generall maxyine that thou hast remembred before, that is to say that where two tycles ronne together, that the eldest shalbe preeze of and so in this case that generall maxime in this pounte shall hold no place nother in lawe nor in consequence, sor by this partyculer maxime the strength of that generall maxime is terraqued in enery intent.

The thride queltyon of the Stus

Sopterme of peres do waste wherebye they be bounde by the lawe to yelde to hym in the revery; on treble damages. Ind shall also forfete the place wasted, whether is he bounde in consequence to pay tho damages and to restore the place wasted imme dyatipe after the waste done, as he is the syngle damages, or that he is not bounde therto tyll the tre ble damages and the place wasted be recoveryd in the kynges courte. I Doctoure, Byfore ingemet gruen of the treble damages and of the place wasted he is not bounde in consequence to pay them, for it is bucertayne what he shulbe pay, but it suffice the

that he be redye tyll ingementes be gyuen to pelde Damages according to the value of the wafte, but after the jugement gyuen : he is bounden in confeg ence to yelbe the treble bamages / & allu the place walted. And the fame lawe is in all fatut penall/ that is to fay that no man is bounde in conference to pay the penaltre tril it be recourred by the lawe T Student / whether may he that hath offended agaynft fuche a ftatute penall befende the accyon and hyndze the ingemet to the intent he wolde nat pay the penalytre but onely the Cyngle Damages. Dodourer If the accoon be taken erghtwyfely according to the flatute , and boon a fulle taufe the defendaute may in no wife befende the accom, onles he haue a true dylatory mat to plede, whiche shulde be hurtful to hom if he pleded it nat/though he be nat boube to pay the penaltye tyll it be reco: mered.

The fourth queltyon of the Student.

Student, Isa man inteste a nother i certapne lande spon condicyon that if he inteste any or therethat it shalbe lawful for the festiour a hisheires to reentre. Ac. whether is this conduction good in consevence thoughe it be voyde in the lawe.

Doctoure, what is the cause that this codycyon is poppe in the lawe. O Student, The cause is this, by the lawe it is incydent to enery state of see symple, that he that hath that estate may lawfully make a tessement theros. Ind the tesse taketh that

succeptie of the festoure. And the when the festour restraymeth hym after that he shall make no fester ment agaynte his owne former graunte / and also agaynte the puritie of the state of a tee symple, but if the codycion had ben that he shulle nat have intested suche a man / or suche a man that conducion had ben good / for he myght yet inteste other.

Todoure Thoughe the layd condrepon be a: gavnit the effecte of the flate of a fce frmple / and alfo agaynfte the lawe: Renerthelee it is nat a: gaynut the intent that the partyes had / and that at the tyme of the lynerey. And for as moche as the intent of the ptyes was that if the felle infeffed any man ofthe lande, that then the feffoure Chulce entre; and to that intent the feffe toke it, and after breke the intent it semeth that the lande in conseps ence fhniberetourne to the feffoure. (Stubent/ The intente ofthe parties in the lawes of Englade is boyde in many cases , that is to save it it be net orderyd accordyng to the lawe. As if a man of his mere moryon without any recompence intendyng to avue landes to a nother and to his herres make a dede buto hom: whereby he grueth hom the fans des to haue to halbe to hem for euer intendyinge that by that worde: for ener the feffe thuide haue the landes to hym and to his herzes / in this cafe his intent is boyde , and the other thall have the lande only for terme of lyte. Alfo ifa man gyue la: bes to a nother a to his heyzes for terine of.xx. peres Itendrng that if the leffee dre withi the termer that the his hepres Chuldenion the labe duryng the fine

In this cale his entent is voyde / for by the lawe of the realme all chatelles real and perfonal thall go to the crecutours / and nat to the heppe . Hifo if a man apue landes to a man and to his wyfe and to the thyrde parlone intendringe that cuery of them shulde take the thyrde parte of the lande as thre co mon parions thuld his intent is boyde for the but bonde and the wyfe as one persone in the lawe that take only the one halfe and the thyzde perfone the other halfe / but thefe cafee be alwaye to be biders Rande where the faid ellates be made without any recopence. And for as moche as in this princepall tale the intent of the festouris grounded agapulle the lawe : and that there is no recompence apports ted for the feffement me thynketh that the feffours as in the lawe of the realme bath nevther ryght to she lande by lawe noz confepence / foz if he fhuibe haue it by eofevence that cofevence fhulde be grou: ded byon the lawe of reason and that it can nat/ to; condrepons be nat grouded bud the lawr ofres fon but bpo the marymes & cultome of the realme Ind therfore it impght be ordanned by flatute that all condictons made byon lande Chulde be boide. Ind whan a conduction is borde by the marvines of the lawer it is as full borde to every intent as it were made borde by fatute i and fo me thruketh that in this cafe the feffoure hath no ryght to the lande in lawe noz in confevence. (T Doctoure) 3 am content the oppenson frande tell we fhal haue

p better leafure to fpeke ferther

in this mater.

Chapitre. Fo.zrrie. M. The. v. queltyon of the Student/ The . zrv. chapitre.

- Eudent / Ifafpne with proclamacion be le: uped according to the flatate and no clapme made within b. peres. te whether is the ryght of a Araunger extencted therby in conference / as it is in the lawe. I Doctoure Apon what confrdeta epon was that ttatute made. (student / Ehat the ryght of landes and tenementes myght be the more certayaly knowen a nat to be lo bncertayne as they were befaze that Catute. [Doctoute And whan any lawe of man is made toza comon welth offor a good peace ond quyetnes of the peo: ple or for any inconvenyence or burte to be fauy b from thein that lawe is good thoughe percale it exs tonde the roght of a ftraunger and mufte be kepte in the courte of confepence / for as it is fayd before in the. iii chapitre / By lawes ryghtwylely made by man : it appereth who hath trott to lades and goodes: for what fo euer a man hathe by fuche & lawe, he hath it ryghtwylely. Ind what lo euer he holdeth against suche a lawe he holdeth vnryght: mpfelp. And ferthermoze as it is lapd there all la: wes made by man / whiche be nat contrarve to the lawe of god, mult be oblerued and kepte, and that in conference. Ind he that displicth them bispileth god, and he that refplteth them refplteth god, alfo it is to be understande that possessons a the ryght therofbe subjecte to the lawes, so that they therfore with a cause reasonable may be traslated and als

teryd from one man to a nother by the acte of the lawe. And of this confyderacion that lawe is grouded that by a cotracte made integres t markettes the propertye is altered except the propertye be to the kings to that the byer pay tolle 102 do Inche do there thynges as is acustomed there to be done by fuche contractes 1 and that the byer knoweth nat the tormer prietye. And in the lawe Lyuyle there is a lyke lawe that if a man have a nother manes good with a tytle thre yere thynking that he hathery ght to it the hath the very right but the thather that the propertye and right of thinges thinde nat be bucettayne, and that varyaunce and stryfe thus a the property and that varyaunce and stryfe thus and the contestance, and that varyaunce and stryfe thus and the contestance, and that varyaunce and stryfe thus and the contestance, and that varyaunce and stryfe thus and the contestance, and that varyaunce and stryfe thus and the contestance.

nat be among the people. And for as mothe
as the said statute was ordained to grue
a certaintye of tytle in the landes
and tenementes compresed in
the syne. It semeth that
that syne extradeth
the tytle of all other/aswell in coscrence
as it dothe in the lawe.

TIfinis.

Were after followeth the table of this present boke .

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Cfinis tabule.

deste que finalmot the To deute of the laws

ST DING

Dere endeth the typle Dyaloge in Englosthe, bytworte the Doctoure and the Student, of the groundes of the laws of Eng. lande, and of Consequence.

I A quelipon.

There after totoweth a Questyon made by the Doctoure, howe certaine reconcryes that be psed in the Lynges contres to defete Expled lande, may kande with consevence.

Dan the fatd Dyalogue was clerely tynyshed, and that the faid Dodoure and Studens were departed: shortely after thei inet together agayne: and then the Dodoure said to the Studet thus. It our sast beyng together to dyners thynges concerning the

whan we reasoned byuers thynges concerning the groundes of the lawes of Englande and colepence whichercalons I have cauled to be wipten in the englyffhe tonge as a Dyalogue : I purpofed to hane afhed ofthe a queltyon : whiche at our bepar tong came nat to inv inpnde: wherfore I pray the if thou have to moche leafure , that I may nome here the mende therin. Chaubente Let me here the quelleon and I thall with good well fare as I thenke therin. I Dodoure I have herde far that whan a man that is feafed of landes in the taple selleth the lande. That it is comonly vsed that he that breth the lande Chall for his fuertre / and for the anophyng of the taple in that byhalfe:caufe foe othistrendes to recouer the fapt landes againfte the fard tenaunte in taple : whiche recouerpe as 3 have ben crebably entozined Chalbe had I this ma: net : the demaundanntes Chall Surpose in they?

Thefyzite Dya.

A quelton of the Dodouter

wiptte and declarargen that the tenaunte hathno entre but by luche aftraunger as the bocr feall tyfte to name and appointe : where in Dede the demaundauntes neuer habbe pollellyon therof nos pet the fande fraunger. And theropon the fand tengunte in taple thall appere in the courte and by coupn and by affente of the partyes / Chall vouche to warraunte one that he knoweth well hathe nothenge to velde in value. And that bouche fual appere / and the bemaundantes Chall Declare against homent therupon he thatt take a bave to enverte in the fame termerand at that dave bo affente and tourn of the partyes he shall make De: faute ppon whiche defaute bicaufe it is a befaute in belpvte ofthe courte the demanndauntes Chal ha: ne Jugement to recouer agaynt the tenannte in taple and he ouer in value agannft the vouchee & this Jugement and recouerp in balue is taken for a bart of the ravie for ener howe may it therfore be taken that that lawe flandyth with conserece that as it femuth affenteth to fuche farned recourres. Student, Tebe tenannte in tayle lei the lande for a certapne fuine of mony as is agreed by tworte them at fuche a proce as is commonly vied of other landes/andfor the furetre of the fale fuffreth fuche a recourre as is a forefard / what is the cause that inpuvil the to boute whether the fard cotracte or the recourry made ther bpourfoz the furctic of the bocrthat hath tracly payde his mony toz the fame Thulde ftande wieh conference. & Doctoure, Two thinges cause ine to doute therin one is for that

Loncernynge tapteb laube.

that after our lorde hab apuen the lade of Byhelle to abjaham + to his febe that is to fay to his thyt: Dien in pollellyon alwaye to contynue helaybe to Boyles as it apperyth leuiti. erb. the lande Chall nat be feide for ener for it is myne. Ind then oure lorde affranco a certapne mance howe the lande inyght be redemed in the pere of Jubplye if it were Colde before: end for as moche as our lorde wolde that the lande fo gynon to Bozaham and his chpt= bren Chulbenat be folde for euer : it femeth that he both agapulte the enfample of god that alvenyth. orfelleth the lande that is gyaen to him and to his enplozen as landes intapled be gouen. & nother caule is this: It appereth by the comaundement of god that thou fyalte nat couet the howfe of the nerghboure. te. End ifthe concupyfrence be protys byted inoze fronger / the bulawfull tahpinge and withholorng therof is prohybyte and for as mothe as tayled lande when the aunceftreis deed is a thrug that of reght is belonging to his hepre / for that he is hepre according to the aptic/howe mave that lande with roght or confeience be holden from hoin. Chtudent/ Ratwithstandpug that phyby coon ofaling the god / wacrby the lande that was quie to Abraham & to his feed myght nat be alve : ned for euer pet lades withi walled towneg inpaht lawfully be afpened toz ener: ercepte the landes of the leavies as it appereth in the Capoc chapitre of Leultic.xxv. And foit appereth that the fard prohibicion was nat generallier euero place and that amonge the Jiwes : and it appereth also that Thefythe Dya.

计分类系统 等其为约

A queltyon of the Docouter

it was grue only for Abram and his chylogen, and foit was nat generall to all p. opie. And it appe: rethailo that it extended nat bus only to the lande within the lande of promilloon / as it appereth by the wordes of the land chapitre where it is faid the all the region of your policifon fualbe folde under the condreven ofredeming wherey appereth that landes in other countres be nat bounde to that co: bye on, and as they be nat bounde to that condy: epon : by the fainc reason it foloweth that they be nat bounde to the lame fucceffvon . Ehrrfoze the lapb lame that well that the labe gouen to Ibiain end to his Cede fhall nat be folde for euer, byndeth no lande out ofthe land of prompffron / end fome men well fare that fythen the paffron of our lozbe was promulgate and knowen it bendeth nat there Bud to the feconde reafon whiche is grouded bpon the comaundement ofgod : It mult nedes be grou ted that it is not !awfull to any man volaw ully to touet the house of his nerghboure and that then moze Gronger he may nat valawfully take it from him but the it remarneth tor the vet to proue home in this cafe this tayled lande that is folde by his aunceltre and wherof a reconcry is had of recorde in the hynges courte map be fapo the lande of the herzes. T Dodoure That may be proued by the lawe of the realme , that is to fay by the flatute of weltineller the fcconte the tirfte chapitre where it is farb thus. The well of the apuer erpreffely contev. ned in the debe ofhis gyfte Chalbe fro henfforth ob: feruch to that they to whome the tenementes befo

Concernyng tapleb lanbe.

gonen Chall nat have power to alvene but that the landes after theyr deth fgal remanne to therr rulue or retourne to the bonour if the vilue farte by the whiche fatute it appereth eupbently that thoughe ther to whome the tenementes were fo avuen alve: ned them away , that vet neuertheles they in lawe and conference by reason of the land flatute ought to remarne to the herzes accordinge to the grete / for it is holden comonly by all Dodoures that the tomaundementes and rewles of the lawe of man or of a polytyue lawe that is lawfully made bynde all that be lubgettes to that lawe according to the inpube ofthe maker, & that in the courte o' confep: ence. (Stubent / Doeft thou thynke that if a man offende agavna a Gatute venall that he otten deth in edlevence admyte that he do it nat of a wel full bylebedyence for that he well nat ober thelaw. Todoure It it be but only a fatute that is ra! leb populat it byndeth nat in cofcpence to the pay: ment of the penalptie / toll it be recoucred by the lawe. End then it bothe britde in conference : but ifa Catute be made pricipally to remedy the burts of the partie : and for that hurte it goueth a penals tle to the partie in that cafe the offenboure of the flatute is bounde immebratie to reffore the Dama ges to the value of the hurte as it is boon the ffa: tute of walte ! but the penaltie aboue the harte be is nat bounde to pay tyll fugement be gruen as it is fand before : but Catutes by the whythe it is affogned who shall bane right or propretie to thefe laubes and tenementes/ of to thele goodes and

A queltyon ofthe Dodoute!

ratallysific benot, against the lawe of god noz a gaynfte the lawe of reason bynde all them that be lubgette to the lawe in iame end conference/s fuche a ftatute is the flatute of wellmefter the.ii. whero! we hane treated byfore wherefore it mafte be oblet upd in confryence. @ Student But fomme holde that the fayd flatute of westen the. ii. was made of a lingularitie and prefumcion of many that were at the fayd Barliament for craftynge a magnyfying ofthey; owne blode and ther forether fay that that Catute made by fuche a prefumption byndeth nat in confcience. T Doctour, It is very perplious to iuge for certanne that the faid fatute was made of fuche a prefumperon as thou fpekelt of for there be many colyderacions to proue that the layd flatute was not made of luche a palumption but ofa berp good inpude of all the Paripament of at the lefte of the more parte therof, and tor the common welth of all the realine, and frafte in the king the whiche in the fapde Watlyament was the hed and mofte chpete and princepall parte ofthe Darlyament as he is in every Parlyament / ran nat be noteb no fuele intent. for it is nat necellary nor it was nat than in ble that landes of the crowne Chuide beens tapled :and in Spirituall men ne pet in certapne burgelles and everyons of the fayde Berlyamene whiche at that tyme had no landethere can be no: ted no fuche fongularitie, noz pet in the noble men and gentylmen, not fuche other as were ofthe faid Darlyament and hade landes and tencmentes: It is nat good to inge in certaine that they bydit Concerupng tapled lande.

offache a prefumperon but it is good and expedy: ent in this cale as it is lother cales teat be in boute to holde the furer way / t that is that it was made of charpte to the frent that he nor the hopres othur to whome the lande was avuen Chuide nagfall in to extreme pourtes and therby haply to ronne ito offence agantte gob , and thoughe hapire it were true as they Cape that it was not made of charyte but of presumpeyon and fragularyte as they speke of. Reuertheles for as moche as the flatute is nat agayafte the lawe of god / noz agayafte the lawe of reason it muft be obserued by all thein that be sub= gedes unto that lawe / for as John Gerlon larth in the treatple that he entytuleth in laten De vita Spirituali anime : thefourth leffen and the thypte cozollarge: farth that god well that makers oflas wes tuge onely of outwarde thonges and referue fecrete thonges to hoin And fo it appereth that ma may natinge ofthe inwarde intent of the dede but offuche thynges as be apparaunte / and certayne it is that it is wat apparaunte that there was any fuche eogrupte entente in the makers ofthe layd fa tute / howe may it therfore be fayb that that lawe is good or ryghtwyler that nat onely luffreth luche thynges agayafte the ftatute / bat allo agayafte the commanndement of god . C Student Cothat fome answere / and save / that when the fande is folde and a recourrye is had therupon in the kynges courte of recoide that it luffyleth to vare the tayle in consevence / for they fare that as the tayle was trafte ordayned by the lawe /

A queltyon of the Dodoure/

So they fay that by the law it is admuiled agapne of Docoure, We thou thy felle inge is in that cale there belyke auttoritie in the making of the tarle as there is in the abnullynge therof, for it was er: dayned by auctoritie of party ament, the whiche is alway take for the most byghe courte i this realme before any other / and it is anulled by afalle cup: potell : for that that they that be named bemauns dauntes thuide have ryght to the lande where in trouth they never had reght therto / wherepon fo: loweth a falle supposed in the writter and a falle sup potell in the berlaracy oand a bouther to waraute by coupl of fuche a plon as hath nothing to pelde in value, and ther upon by couph and collucton of the parties followeth the defaute of the bouchee: by the whiche befaute the ingement fhalbe gruen, End fo all that ingement is Detynled and groun: ded of the batrue supposell's coupa of the parties, wherby the lawe of the realine that bath ordayned fuche a wift of entre to beipe them that have right to landes of tenementes is Defrauded : the courte is befrepued , the hepre is differeteb : and as it is to doute the byer and the feller and there herres & allygnes haupng knowlege of the tayle be bounde to reflytucyon / and verylye I have harde many tomes that after the lawe: fuche recoueries fhulde be no bare to the hepze in the taple if the lawe of the real me inpgite be therin indpfferentlye herbe. Dendent / 3 can natte but that after the lame of the real me it is a bart of the tarle / for when the tenaunte in tayle bath bouched to warrannine / 9

Concernyng tayled lande ...

the bouchee hath appered and entred in to the our ranntie / and after hathe mabe defaute in belpyte of the courte wher voon ingement is gonen farthe bemaundaunte agavnft the tenaunte audforthe tenaunte that he Chall reconere in value agapatte the pouchee: if the hepre in the tayle thuibe after bivng his formedone and reconer the lades intap: led and after the bouchce purchafeth landes titla thulbe the herze alfo have erecueron againfte upin to the value of the landes entapled as henze to his aunceltre that was tenaunte in thefralle account and fo he fhulde have his owne landes i and alfo the landes recovered in value , a therfore bycante of that prefuperon that the vouchee may purchafe landes after the ingement, Come be of oppymyon that it is in the lawe a good bare of the tayle. T Dodoure, I well take a respete to be adupled of that thou hafte layd of that recouerre in value. And if thou can pet theweine any other confedera: even why the layb reconcepes fhuibe flende with consequence : I pray the let me here the conscapte therin , for the multptude of the fard recoucryes is fo great that it were great pety that all they Chuibe be bounde to reftytuepon that hane ladenby fuche recoveries foth there is none that disposeth thein co reftore. C Student / Some men make an other reafon to proue that the fayb recoucries finibe be sufferent by the lame to bart the taple and ifther be suffrepent therto in the lawer they be also suffy: epent in confepence. T Dodoure what is there ecafo therin. O Stubent/ In the vii. yere ofkung

A queffyon of the Dodoure!

Denry the .vili, the .iiii, thapitre - Ainonge other thynges it is enaded that all recouerers they hey: res and allygnes may aduowe and intrefrefor ren tes ferupre and cuftomes by them reconered : as they agaynfte whome they recourred myght have Done. Ind than they faye that when the Barlya: ment gaue to futhe recouerers adozytie to aduome and fullpfic for farie rentes cultomes and ferupces that the intente of the Darly ament was that fuche reconecers that hanceyghe to that : for the whiche they thulde aduowe or intropertor els they fay that it finide be in bounc to grue them fuebe pewer! and that the parly ametfhulde els be taken in maner as fortyfeers of wrongfull eptles: and fo thep fay that fuche recoverers by reason of the fayo fra: tute hane ryght by the lawe. (Dodoure / That fratute as it femeth was made onely to grue to the reconerers a forme to aduowe and intripe whiche they hab nat before thoughe they habe recouered upon a good totle. Ind the caufe way they had no forme to a duome or infripe before the fard flatute was for as moche as the reconcrers byb nat by the pretence ofthepraccion afferme the pollellie of him st them agarnit whome they recovered / not elaymed nat by the but rather bifafermed & Diftroped they affate. Ind therfore they can nat alege any contribudunce of thepr tytle by them as they mave that have rentes or fernices or fache other of the graunt of other. And therfoze as it lemeth the molt parnervall intents of that flatute was : that fuele recoucrers thulde aduance and inflife for rent fers

Concerning tapled fatted

apces cultomes as they that be or inggit bo that had them byfone or dede: nathaupng any refprite as it lemeth whether they recourted against tes names in ecclymple or in see taples nor where the recourres were had byon a ryghtfull trite : and therfore as me femeth the fard effacute nerther at: ferincein nor dilatermert the tytle of the recoveryes wheely they bo aducte for if any men had englit before the recovery that erabt chulbe remarne bus to hom nat with frandong the fard flatute: and fo me femeth that the tytle of them that have tentes entayled by luche recourres is nothing fortyfred no; affermed by the fayb tflatitte / but that thep are in the fame case as they were before: what then kelt thou therin . @ Stubent Chis mater is greate , for as thou favelt there be to many that have capted lades by fache recoveryes that it were greate pytie and henynes to condempne fo many parlones and to inge that they were bounde to rela tytucyen: for I thynke there be butfewe futhis realme that hauclandes of any notable valueibut that they or their aunceftones or for other by who they depune have hed parte therof by furhe recone tyes ! In fo moche that lordes fpiritiall a temporall knyghtes/fquyzes/epithemich, and pooze 990 nafferies / Lolleges / and hospyfalles have furthe fandes/foz fuche recouerves hane ben ofco of long tyme who may thynke therfore without greate her upnes that formany men thatbe be boffor to refte: tueponi & that pet as thou fapit i namen disposeth. hym to make reftytucyon. Intifo Fain in inance

A gueltyon of the Doctoute

perplered and wormat what to fap in this cafe, but that pet I trufte that vanozaunee may excule ma: upperfones in that behalle . Todoure / pgno: rance ofthe bede may excufe , but vgnozauce ofthe lawe excufeth nat / but it be inbynerble / that is to fap that they have done that in thein is to knowe the trouth as to councepil with terned men: and to ache thein what the law is in that behalte, a if they anfæere them that they may bo this or that law: fully than they be therby excused in conscience, but pet in mannes lawe they be nat therby bylchargeb but they that have taken boon thein to have know lege of the lawe be nat excused by pgnozauce of the lawe i ne no more are they that have a wrifull va: notaunce and that wolde rather be vanotaute tha to knowe the trouth. And therfore they well mat dif sofethem to affic any conneedl in it / and if it be agaynfte the lawe of god or the lawe of reasoning man thatbe excused by pgnozaunce mand fo there be but fewe that be ereufed by pgnozafice. If stu: bent, what then theil we condempne to many and fo notable men. Todonre, we Chall nat con: Demone them but we Chall Chewe them thep bezel. Sendent / vot I teufte that they? dannger is natfo greate that they Chulbe be bounde to relly: turvon , for John Gerlon farth in the fart boke called De pnitate etclesialtica confiberatione fecti Da : obrois errezfaelt ins . That is to Cap that a comen erroure maketh a ryght / of whiche wordes as it femeth fome troute may be hab that though it were fully adinpited that the lapbe recourres

Concerning tapled lande.

were feift nab bpon an bnlawfull grounde aubat guynft the good ofde of confepence / that permes uertheiestoz as moche as they haue bene bled of long trine i to that they have ben taken of byuces me that have ben ryght weil lerned toja lawe that the byers partie be ereused so that they be nat bounde to rellytucyon. And mozeoucrit is terz tapne that that Catute of wellin the, if, noz none oz ther flatuce made by ma can nathe ofgreater vers tue of arengthe, than was the bonde of mattymos ny that was ordayned by god / and thought that bonde of matry mony was indiffoluble / pet neuers theles Dovies luffred a byll ofrefulell to the Jues whiche in laten is called Libelium repudu / and fo they myght therby forfake they wofes, Is it ap: pereth Denteron.xxiii, and therfore lyke as a bpf: penfacyon was luffered agapufte that bonde / fo it femeth it may be againft this fature of Dodont Is to that reacon that thou balt laft made of a byl of refusell , let all purchasours of lande here what our logde fanth in the Gofpell to the Jues of that byll ofrefulell: Dathei, xir. where he land thus to the hardenes of your hertes / Morles lufred von to lene your wyfes, for at the begynnyng it was nat to of whiche wordes Dodours holde comonly that thoughe luche a byll of refulell was lawfull fo that they that refused they wyfes therby Chulde be with out payne in the lawe, that yet it was neuer lawful fo that it Chulde be without frnne. Ind fo irkewife it may be fayd in this tales that luche reconerves be fuffreb for the hardnes of the hertes of Englyf-

a queftyon of the Dodonre

themen, whiche delyze lande and pollellyons wit's Co greate gredpuce that they can not be withdrawe from it nepther by the iswe of god not by the lawe ofthe reeline. Bud theil ne that epebe men Chulde nat take the possessions of poore mentroin them by power mitgout coloure of ricte, that is to lay eyther by open dyllefon roz by the onely fale of the tenaut in taple agapufe the expecte wordes of the flatute luche recouerges haueben luffred. Ind thoughe for they greate multytude they may haply be with outpayne as to the lawe of the realine : vetit is to teare that they be nat without offence as agannite god and ag to tip other reason that a comon er: roure shalde make a ryght those wordes as me le: meth be to be thus pndeeftade that a cuftome pled against the lawe of man thatbe taken in forme con: tres for lawe if the people be luffred to to contynue And vet fontemen call fuche a cuftome an erroure bycaule that the contynuaunce of that cultoine a: gapuft the lawe: was parrely an erroure in the peo ple / for that that they wolde nat ober to the laws that was made by thepr fuperiour to the contrarge ofthat custome / but it is to be understade that the fayd reconeryes thoughe they have ben longe bled may nat be taken to have the Arength of a cultome for many aswell lerned as unferned haue alwayes spoken against them and pet do. And farthermore as I hane herde far a cultome oz a preferiperon in this realme against the statutes of the realme pre uaple nat. Theudent, Thoughe a cultome in this realme prenayleth nat agaynit a fratute as to

Loncernyng tayled lande.

the lawe / yet it Cemeth that it may prenaple as gapuit the flatute in consepence for though vgnos rance of a fratute extufeth nat in the lawer neuer theles it may excule in confepence | and fo it femeth that it may bo of a cultome. [Doctoure / But if fuche recouerpes can nat be brought in to a laws full cultome in the lawer it femeth they may nat be brought in to a custome in consevence/for colevence must alway be grounded vpon come lawe, and in this case it can nat be grounded bpon the lawe of reason i nor byon the laws of god: a therfore if the lawe of man ferue nat / there is no grounde wher: boon confriente in this cale may be grounded and at the beginning of suche recourries they were ta ken to be good breause the lawe shulde waraunte them to be good and nat by reason of any customes and so ifthe reason of the lawe wyll nat serve in tho recoveryes, The cultome can nat helpe for an cupt cultome is to be put away, and therfore me femeth that tho recoveryes be nat without offence agapn& god / thoughe hapipe for they greate multytude and that therethulde nat be asit were a fubuer: fron of the inherptaunce of many in this realme as well of supertuall as temporall , they be with: out payne la the lawe of the realine / excepte Suche recourryes as by the common course of the laws nowe bled be bordable in the lawe by reasone of fome ble / of of forne other fpeceall mater / bet what offence that is I will not temetously Juge but commytte it to the goodnes of our lozde whole Jugementes be very depe and profounde / nor

& quelton of the Dodoure

I will natfully afferine that they that have labes by fuche recoueries ought to be compelled to reity: tucyon/ but this femety to me to be good countepil that every ma holde that is certapne and leue that is bucertagne : and that is that he kepe hyin feite from fuche recouseres and then he thatbe fre frome all Cerpulouines ofconference, in that behalfe . (I Student, It feineth that in this queltyon thou ponbereft great pe the fay o flature of welten the it. and that thougheit be but o sely a lame made by man that petfor as moche as it is nat agapuft the lawe ofreaton/ nor the lawe of god/ thynkefte that it mult be holden in consevence ; and ouer that as it leineth thou art fommhat in doute whether thole recoveryes be any bart to the heyre in the tayle by the laws of the realme onles that he have in value in dede boon the boucher) a that thou walte there boon take a respect or thou shewe the fall mende therin, and in tphemple thon thontell as I take it that those recouerpes can nat be brought in to a eistoine/ but that the longer that they be luffered to cheonice if thei be nat good by the lawe the grea ter is the offence against god, And therfoze thou pondereft lyele that cuftome/but vet thou agreefte tant it is good to fpare the multitude of them lefte a fabuerepon of the inverstaunce of many of this real me moght folowe and greate Arpfe and vary: some also if thep shulde be admulled for the tome

pall excepte there be any Other especyall cause to anorde them by the lawe as thou halte touched in thy lake reason, but thou thynkeste that it were

Concernynge tapled lande.

good that fro healforth luche recoveryes shalde be clearely prohybyte and nat be suffred to be had in vie as they have ben before: and thou counterliest all men sherfore to refrague them selfe frome suche tecoveryes. O Doctoure, Show takest well that I have sayd and according as I have mente it. O Student, Rowe I pray the syth I have herde thy questyon of these recoveryes according to thy despre, that thou woldest answere me to some party elected questyons concerning tayled landes: where of thou hade at this tyme gruen vo orcasion to speke. O Doctoure, Shewe me those questyons, a I will shew the my mynde therin with good will.

C Thetpite queltyon of the Stadenti

Tudent: Ita disseloure make a gyste in the tayle to John at Style: and that John at Style for the redemyng of the rytle of the disselse agreeth with him that he shall have a certayne rente out of the surveye of that rente it is dyunsed that the disselve thall elease his ryght in the lade. sc. and that such a recovery as we have spoken of before shalle have against the land John at Style to the vie of the parment of the sayd rente and of the somer sayle; whether standeth that recovery well with cost yence of mat. I Doctoure: I suppose it both for it is made so, the strength is surveye of the tayle which is the style of the strength is surveye of the tayle which is surveyed.

The Geonde quelyan of the Stubenti

the diffeire inright have clerely beceased and anopa bed iche wide, and shirting as I thinke it the laid John at this had graunted to the diffeire onely by his bede a certagne rentefor the releasing of his ty the that graunte shu de have bounde the hepres in the tarletor ever, and the itche diffeir tor his more successful than cuche a recoverye as before appreciant semesh that that recoverye standesh with good consequence. I Student, It semeth that the good in this mater. And so it appeared that with a reasonable cause some party suice recoveryes may stande both with laws and consequence to barre a tayle.

The leconde quellyon of the Student

endent Ittenaunte in taple luffre a recones the intente that the reconeters thall stande sealed the intente that the reconeters thall stande sealed thereof to the vie of a certapne woma whome he enseenderh to take to his wyte. In terms of her lyse, a after to the vie of the type taric: and after he mas event the seme woman, whether standeth that restouctive with constraince nat haupage any respect to the comon vie of the sand reconetres, not vet to the greate multiptude of them. I Doctoure, It seemeth res, so thoughe the statute be, that they to whome the testes be so grue shall nat he us power to alpen, but that the lades after they deth shall emanne to they pleas of reverte to the domoure if the yillnessayled; yet if he to whome the landes if the yillnessayled; yet if he to whome the landes

Loncernyage tayled lanbe.

vete lo grue take a myle and breih leuled withous heyze ochis body and the bonoure entre the woma Gall recouer agayufte hom the thy De gte to golbe in the name of her dewie for time of her ipte though the taple be betermyned and the ame lawe is ofte naute by the curtefpe: that is to Cape of hom that fuait marre one that is an enbergtrip of the landes entapled and they have plue the wyle breth and the vilue beeth : he Chall boibe the landes for terine of his lyle as tenaunte by the curtefpe, natwithaa: Dong the wordes ofthe Catute whiche fay thatatter the dery of the tenaunte in taple without plue the landes thail reuerte to the bonoure, and I tyruke the caufe is bycaufe the intente of that fatute thall nat be taken that it inteded to put away Cuthe tys ties as the lawe fluide grue by reason of the taple and to it femeth that a lpke entente of the Catute Malbe tabe for iovntures, for els the fatute myaht be Comfpine a lettrng of matermony: and it is nat loke that the Catute intended lo / and lo it femeth that by the onelp Dede of the tenaunte in taple & toyntoure may be made by the entente of the fas enterthoughe the wordes of the fatute ferue wat es prellely for it, for many tymes the intente of the let der Chalbe taken and nat the bare letter, as it appe eeth in the fame Catute where it is fand that he to whome the landes be ayuen that hane no power to alpen vet the fame fatute is coftened that werther he not his herzes of his body that have no power to Alvene : and Co me thonketh that fache an intence Malbe taften here for laupinge of forntours .

Thefpile Dya.

6,11.

Che thribe queltpon of the Stubent

T Student Trouthit is that fointyme the intent ota flatute fhalbe taken ferther tha the exprelle let ter fretcheth / but pet there may no entente be ta hen agapulte the exprelle fetter of the latute i foi that Chulde be rather an interpretargon of the Ca: tate then an expolption and it can nat be realong bly taken but that the intente of the makers of the flatute was that the lande fin De remagne conty nualize in the herzes of the tayle as longe as the caple embateth ; there can no toyntoure be made menther by bede no; by recovery but that the taple muft therby be biftontynueb : and thertoze this tafe of iopntoure is nat lyke to the layb cales of te naunte in Dower of tenaunte by the courtefp : tos the tytle ofdowip and of tenauntry by the curtefye groweth most specpally by the contynuaunce of the possession in the herzes of the taple, but it is nat lo ofiophtours, and therfore by the onelp dede of the tenaunt in taple / there may no iopntoure be laws fully mabe againste the expresse wordes of the stan eute. Ind if there be any made by way of reconery than it femeth that it mufte be put beber the fame remle as other recouerpes mult be oflades itapled.

Che thythe queltyon of the Student.

Des in fee of his mere moryon make a feaffe; ment of certapne lades to the intente that the feofices that there in the layer to the layer John at

A COMPANY TO SEE

能够够舒适

Zoncerupng tapleb lanbei

ione to have to hom and to his herzes of his body and they make the grite according. And after the fapo John at none talleth in to dette / wherfore he is taken and put in profont and ther boon for pay ment of his bettes he felleth the fame lande / and to, fuesty of the beer he luffereth a recovery to be had against him in tuche maner as before appes eethi whether flabeth that recouerne with colcience ornat. I Doctoure I wolde here make a lytel bis grellyon to alke the a nother queligon of I made answere to thouse / that is to save to tele the invide howe that lawe by the whiche the body of the det: coure thatbetaken and catte in pipton there to remarne tell he have payde the dette may flade with consequence specyally if he have nothing to pave it with 1 for as it semeth if he well relyuguythe his goodes whiche in Come lawes is called in laten ce: bere bontal that he thalf nat be in papioned and that is to be procest ande most specyally the befal ten i to poneete and not though his owne velaute Theudent, There is no lawe in this realine that ebe betenbante may imany cafe cebere bonis and as me lemeth ifthere wert fuche a fame it ihulo nat be indufferent for as to the knowelege of hum that the mony is owinge to the bettoure myght redere bonis / that is tofar relynquethe his goodes and pet tetanne to hom felfe fectetely greate epclies . and therfore that tawe in fuche cafe femeth more indviterent and regutous that competeth inche a bettoure to the confepence of the playntofe to whoe the mone is oweng the that competeeth hym to the The spille Dya. Siil.

The iti quellyon of the brubent,

conference of hom that is the bettoure , top in the Detgoure Coine de aure may be allegned: but i brim to whome the mone is oweng may be allegued no Defante. (Donoure Burit he to whome the Des is owing knoweth that the Dertoute hath norhying to pay the bette with / and that he is fallen in co that pourte by toine eafualty : Ind nat thorughe his owne defante bothe the lawe of Englade holbe eight be may with good confepence kepe the bettous Opll in profon toil be be paybe. I Student, Rag berply / but it elipnheth moze reafonable to ap: povate the lybertye and the fugement of colevente in that rale to the Dette then to the Dettoure: for the raule befoge reherlen . Zindthan the betre if he knowe the trough is as thou traffe fayd bounde in consevence to let hvin go selvbertie thoughe he be nat compeliable therto. Aub thertoge abingetpine it for this trine that the lawe of Englande in this pornte is good a fulte. I pray the that thou write make anfwere to mp queffro. C Dodoure 3 will with good well / and therfore as me femeth for as enothe as it appereth that the fait grie was made of the more lubretre and fre well of the land 3016 at note / e without any recompence / that thertois it can nat be othermole taken but that the intente of the land John at noke alwell at the tome of the fard feoffement as at the tome that he terenuch as gayne the fato gyfte in the taple was that if he hem pened afterwardes to fall in to ponertve / that he enpylit givene the fand lande to refrue brin with a to; howe may it be thought that a ma wyl to mothe

Concerupng tapleblanbel

ponoze the welch ofhis herzes that he well torget bym felte / and fo it frueth that net oncip tacte 20 reconerve Canbeth with confevence: but a fo that ffie made onein a feoffement of the tode chas that scottement (huide be in confecence a good butte ut the taple but if the fand leoffement and grie bas ben mabe in confrocraceon of any recompense of mont ortor any matrymonre or lucie Grace out then the kourement of the lapb John at nokefuu s nat bynde his herze, and if he then fifted any res equerye therof that that recourre faulec be of lyke effecte as other reconcrues wherof we have treas ted before / and the whiche I farbeit was good to Laudure rather tos theys maltrtube then for the conference and the fame lawe is that if the conne and the hepre ofthe land John at noke in cale that the lapbe gyfte was made without recompence at Ipen the lande for pouretye ufter the beth of hisfas ther that reconerve byndeth mas but as other res conceves bo; for it can wat be thoughte that the intente of the father was that any of his hepres in tavle thuibe for any necellytie bytherree all other herzes in the tapie that thulbecome after hom but for bim felfe me thinketh it is reasonable to inge in fuche maner as I haue favde before. I Stubent and if the intense of the farbe John at nobe what he made the fande feoffement / and whan he toke agavne the lard grite in taple were that if he tell in nede eliat be moght alven : vet I luppole that he mave nat alvene thoughe percafe to; the more quertie he declared his intente to be fuche opon the The forte Die. C.iuiL

The iff. queftyon of the Stabent/

lonerges offealon : for that intente was contrarpe the gyfte that he frely toke vpon hym : and wha any intente op condycyon is beclared of teferued agaynfte the fate that any man maketh og acceps teth : than fuche an intente of condrepon is voyde by the lawe as by a cafe that herafterfoloweth will apperer that is to Cap ifa man make a feoffemente in fee bpon conduction that the teffe Chall nat alven it to any man / that condecion is bopbe : foz it is incobent to enerp date offee fringle that he thatis fo feafeb may alpene Ind as in a fee fomple there is incident a power to alpene : fo in a frate taply there is a lecrete intente buderfande in the gyfte that no alvenacyon thalbe mabe. 3nd therfore though the intente of the fard John at noke were that if he fell in to pouertie that he myght fell and thoughe he at the takying of the gyfte openly becia red his intente to be fo : vet that intente Chulde be porde by the lawe | and if it be boyde by the lawe it is also boybe in confevence and so the Card res couery multe be taken in this cafe to be of the fame effecte as reconerves of other landes intayled bei and in none other maner .

The.iiii.queltoon of the Student concernyng recouerpes of enherytaunce entayled.

Endent/ Itan annuyte be graunted to a ma to have and to perteque to the grautoute and to the herres of his body at dale, te. of the grauns tours and they fuce, of of the grauntoure and his

Lauternynge tayled lande.

herres if he be a lar man that maketh the grannee and after the grante fuffereth a recouerie agaynit byin in a wiptte of entre by the name of a tente in Dale of lyke faine as the annuvte is of with bous chers and ingemente after the cumon course and bothe partyes intende that that annupte Chalbe recouered : whether fhall that recouerre bende the hepze in the tayle of this annuyte. [Decoure! what if it were a rente going out of lande of what effede Chulde the reconerpe be than . @ Dtubent/ It Chulde be tha of ipke effede as if it were oflabe. T Dodoure / End fo it femeth to be of this an: nupter for as me thynketh a tente and an annaire be of one effede / for the one of them fhalbe papoe in redye money as the other Mall. @ Dtubent / That is trouth and pet there bemany greate bys nerfpties betwyrte them in the lawe, &l Doctoure! Turancthe fuewe me foine of tho equerfythes: I Beudent / Parte I Chall Chewe the but 3 wos nat whether I can theme the all / but fyifte thou Chalte understande that one bouerfpepe is this! Query rente be it rent feruyce/ rent tharge/or rent fekem gaynge out of lande but an annupte goeris nat out of any lande | but chargeth oneip the par-Cone: that is to fay the grauntoure or his hepres that hane allekon bylcete, or the houle if it be grais ted by a house of relygyon to percepue of thep; co: fers. Mifo of an annuyte there lyeth no accoon but onely a writte ofannupte agapult the grauntoure his hepres of fice, and that wiptte of annuvie weth mener agapus the pernours but of a rent the fains Thefyzite Dya.

Che.fiii.queltyon ofthe Stubent/

acryons maye lye as do of lande as the cafe requy: reth) and it lyeth fomtyme of rente agaynfte the tengunte of the grounde / and Comtyme agaynfte the pernoure of the rente / that is to fay agaynfte him that taketh the rent wrongfully and fomtyme agaynfte neyther : as of a rente feruyce allple may lye for the lorde agaynfte the meine and a bylley: Coure of Comerine agaynfte the meine onely. Alfo an annuyte is neuer taken for an alle bycaule it is nofreholde in the lawe / ne it (hall nat be put in erecuepon bpon a fratute marchaunte fatute fas ple ne elegit as rent mave / Ind bycaufe the fayde waptte ofentre lay nat in this cale of this annuyte. And that it can nat be intended in the lawe to be the fame annuyte , thoughe it be of lyke fume with the annuyte: ne thoughe the partyes allented and ment to have the faine annuyte recovered by the fand wantte ofentre : therfoze the fand recouerne is popde in lawe and conference : but if fuche a reco: nerve be had of rente with a boucher ouer / then it Thatbe taken to be of lyke effette as reconerves of landes be in fache maner as we haue treated of befoze.

> The. v. queltyon of the Student/ concernyng tayled landes.

Sudent) Islandes be gruen to a man and to his wyfe in the name of his iopnture by the fasther of the husbonde to have and to holde to them and to the hegges of they two bodyes begotte and

Concernying tayled lande.

after they have plue and the hulbonde dyeth / and the write airen the lande and fuffre a recovery ther ofto be had agannte her to the vic ofthe bper: and after her fone and heyze apparaunte, that is heyze to the tayle releaseth to the recouerers by fone and breth hauping a brother on lyne : and after the mo ther dreth who hath right to that lande the brer or the brother of hom that releafed. (T Todoure / what is thyne oppynyon therin / I prave the thewe me. (Student / De femeth that the byer hathe ryaht/ for by the flatute made ithe, ri. vere of hyng Denry the bil. amonge other thynges it is enaded that if any woman whiche hath landes of the gyfte ofher hufbonde, or of the gyfte of any of the aunces toures of the hulbonde : Cuffre and recouerve ther: ofagaynft her by coupn / that then fuche recouerye Chalbe boybe , & that it Chalbe lawfull to hom that fhulde hane the lande after the Deth ofthe woma to entre & it to holde as in histyafte ryght / proupded alway that that Catute Chall nat extende where he that Chulde have the lande after the beth of the wos man is agreable to any fuche alvenacyon or recos uerve: Cothat / that agrement be ofrecoide / and for as moche as the herze in this case agreed to the fard recoverye byfpne, whiche is one of the breft re cordes i the lawe: it femeth that the byer hath right agaynft that heyre that agreed & agaynfte all that thatbe herzes of the tayle and that nat only by the fand recouerpe but also by the fande fatute wher: by the fapt recourre with the affent of the heyze is affermed. T Dodoure, Thoughe the byer in this

The. v. queltpon of the Stubent;

case have ergit during the lyfe of the hepic that ea leafed pet neuertheles after his betij his beire may lawfully entre for the agremine wherofine flatute freneth must epther be had before the recourre i or eis at the trine ofthe reconcever tozifa tytle by tea. fon ofthe land statute be ones benolute to the benze in the taple then that right as it femeth can nat be extincte not put away by the only fyne of the heire. nomore tian ithe hab oped & the nerte heire to him had released to the byer by sone in which ease that releafe coulde nat extende the ryght of the taple not the regist of entry that is spue by the flatute, s is as me femeth his nexte hepre may therfore entre. Datubent / 38 % percepue all thy doute is i this; tale bytaule the affent of the hepre was aft the reco merpe ifog if it had ben at the tome of the recouerpe asifthe heyre had ben bonched to warrantie in the fame reconerpe & he had entered / and ther po the tagement had be goue: that recouerpe thuld haue anophed the taple for euer. M Doctoures That is truefor it ini the expresse wordes of the flatute, but what'se affect is afe the reconcrete the me thyrketh it is natio:ne that the roght of the forft taple which was reupued by the layd thatute thall nat beertide by histyne : nomoze then it Chall in other taples . ar Studet I myll be adupled bpathy oppynion ! this mat : but pet one thong wolde I moue ferties vpon this ftatute is that is this some far that be this Catute all other recoueries that have ben hab over and befrde thefe recourres of ionntures be afferines , for they fay that foth the parlyament at

Concernyng tayled lande.

the making of this Catute / knewe well that many other reconcepes were then bled and had to betere taples and that it was like that they wolde fo com tonue! whiche nevertheles the parlyament bybe nat prohybyte for the tyme to come as it opd the Capo reconerges of ionntures ; that it is thertoze to suppose that they thought that they shulde frands with lawe and conference; but bycaule iopntures were made rather for the lauping of the lherptatics of the hulbonde, then to deliroy the inheretaunce thep fay that the parlyamet thought and adinged the alvenacyons and recourt ves of Luche iountu: ees to be agaputte the lawe and coffeence and nat the alpenation of other landes entapled for if they had they fay that the parlyament wolde have ad: popled recoveryes of tayled landes generally as well as it byb of reconeryes of joyntures.

O Dodoure As to that oppynyon I wall answere the the for this tyme that though that the makers of the sayd estatute onely put away recoveres of soputures and nat other recoveries that yet it eas nat be taken therefore that they? Intente was that the other recoveres shulbe stande good and prote to; they speke the onely of soputures bycause there was no complainte made in the parlyamice at that tyme; but agaynste recoveres had of soputures: and therefore it seemeth that they intended nothing concerning other recoveres; but that they shulbe be of the same estate as they were before and no or thermale, and that well appear more playing thus thoughe the makers of the same estatute cutendes.

Che bi quellyon of the Student

coone away and admull fuche recoveries as faulde be made of forntures after a certarne day lympt sed in the Catate : that pet ther entended nat to a: nopbe ne atterme fiche reconcerce of toenture as were pulled before that tyme I and it they entended mat to anorde me afferine the reconcres had of ionneures before that tomet than howe can it be to sen that they entended to put was of to efferme ather recoveryes that were palled before that tring and nat of logntures , that wo be nat afferine na put away recoveries palled of joyntues tetore that erme, and to seit femeth they entenbed to fpare the muleptube of them that were palled of botigr & mat to coforte any to take thein after that tyme. Catudent/ Jain contente the oppenson Gande for this trine / + I well afte the another queltron.

Che. bi queliyon of the Sendent/

Byc and an Auntester collaterall to the lieuze in the tayle release with a warantye and dyc and the warantye and dyc and the warantye of the tale where he herby barred in consequences as he is in the same (Dodoure) Bycause our pipaces, pall intente at this tyme is to speke of reconstruction and nat of warantyes and also breause it hather ben of longe tyme taken so, a pipacepall marring of the lawe that it suite be a barre to the hepre as well that claymeth by a see symple as hy a same

Conternping tayleb lande.

eavly / and for that allo that it was nat out aware by the land frames of wellen the it, whiche ordar ned the taple I woll not at this toine make the at anfwere thering but wyll take a refprte to be abupt leb. & Sudent Chan I pray the pet or we beparte thewe ine what was the most proncipal cante that mouce the to mone this quellion oftecoueries hed oftenied laudes. I Doctoure (This moust ene thereo. I have preined many tomes that there be many druers opponyons of those recourtres! whether they flande with conference on nat , and that is is to Doute that many perfones ren in to offence ofcoligener therby, and therfore & thought eofele the mende in them whether I coulte prepue that it were eleve that they ferued to backe the tarle inteme and conference, orthat it were clercly as garnfte con crence to to breke the taple or that it were a mater in bouge , and if it appered a mater in boute , or that it appears that the mater were bled elerely agayafte confepence , then I thought to bo foinwhat to make the mater appere as it is on the intenter that they that baue the rule and the thatge ouer the people a fwell the Conall me as tem porall me: fulbe the rather enbeuer the to fe it res formed for the comon welth of the people a well in body as in Coule, for wha any thrung is bled to the bifpleafure of gobilt hurteth nat only the boby but alfo.the foule : And tepozali rulers haur natonely cure of the bobies: but alfo of the foules: + fhall ans fore for the ifther periffe f their befant: s botaufe de femeth by the more apparamete reason that the

Che. bi. quellyon of the Student,

capies be nat bioken ne fully anoyded by the laps ecconcryes: and that yet nevertheles the greate druitptude et tien that be palled is reght inoche to be pourbered / thertoge it were very good to pro: hybrie them top tyme to come / to put away (uche ambyguptics and bowtes as be nowe by occasion of the fayb reconcerpes/ + to they be but as in ares to becepue the people and to well they be as long as thep be inffered to contynue, and me thynketh be: tyly that it were therfore ryght expedyent that tay fed lande fulle trom hentforth enther be mabe to Bronge in the lawe that the tayle thutb nar be bio: hen by reconery fone with proclamacoon collate: rall warrantic no; otherwyle of els that all tayles thutbe be mabe fee fymple : fo that cuery man that tolle to fell his lande moght fell it by his bare teof. fement and without any ferppte or gruge ofrontig: ence : and then there fhulbe nat be lo greate expen les in the lawe / noz lo greate barrausce amonge the people: ne pet lo greate offence ofconfepence as there is nowe in many persones. (Student / Merely me thymbeth that thy opponion is regult good and charreable in this behalfe / and that the rulers be bounde in conference to loke well spon it to le it reformed and brought in to good orber. and verply by that thou halte layb theri thou hall Djought ine in to cemeinbraunce that there be by ners lotte faares concerninge totritualt matters fuffered amonge the people / wherby I boute that many (picitual rulets be in greate offence anayuft sob & sit is ofthat popute that the tpisituall inch

Concernong tapted lande.

dane Coken la moche of that preftes thuibe nache pur to answere before lay menspecyally offelonpes and murders/ and of the flatute of rib. @. in. tie in, chapitre where it is laybe that a prohybycgui thati the where a ma is fued in the fpirituall courte for tythe of wood that is about the age of. rr. perel by the name of bilua tebua as it hath bone betoje and they have in open fermons and in bouces of ther open tomungracyons and countaglles cauled it to be openly notefied and knowe that they fould be all a curled that put prelles to answere / or that mayntegne the layb effatute / 0; any other lpke to it. And atter whan they have ryght well percepued that nat withtabyng all that they have bone ther in it hath ben bled in the fame popntes thorugh al the realme in lyke maner as it was befoze . Than they have fyt figlt and let the mater palle / and fu whan they have brought many perfones in greate Daunger : but mofte fperpally the that haue gruen tredence to they lapage | and pet by teafon of the olde cullome haue bone as they byb befoge than there they have lefte them, but berply it is to leare that there is to them felfe ryght greate offence ther by/ that is to; to lay to le lo many in to greate bais ger as they fay they bo. Ind to be noinoze to bring them out ofit, then they haue done for ifit be true as they lap they ought to apche to it with effecte in all charp te toll it were reformed . And if it be nat as they lay then they have cauled many to offenbe that have gruen erebence to them and pet contra: eye to thepa owne confefence Do as they byb before!

Che. bi.queltron of the Stubenti

and that percale (hulde nat have offended if luche laynges had nat ben. And lo it lemet; that they have in these maters done eyeher to mothe of to by tell. And I besethe almyghty god that some good man may to tall vpo all these maters that we have nowe comoned of: so that they that be in audowte myght sommhat poindre them and to offer the insurance myght sommhat poindre them and to offer the insurance had been here of today ence grows nat is supply thereby herafter as bath done it pine paster and very he that on the Lrosse knews the payer of manes soule wrill hereafter aske a ryght strayte accompte of rulers, for every soule that is under the, and that sail perpside thorough they desaute.

and thus I make an ende for this tyme?
and compete the buto our lorde Thela,
who preferue bothe the and me.

ER.

Decembeth dpuers Argumentes
and reasons, made by occasion of a Quedron;
whiche the Dodoure made to the Sinder,
Sowe the Resources whiche be co:
monly vsed to defece tayled lan;
des; may stande with
Lonstyence.



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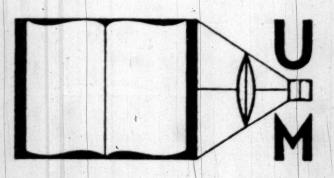


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The se

conde dyaloge in Ensigly The bytwene a doctour of dyupnyte and a Audent in the lawes of Englande.









35. c. 59 (2)

Poraloge in Engly The brimene a Doce tour of divinite and a fludent in the lame of Englande. In the begynnenge of whiche bialoge the Doctour answereth to certain quels erons whiche the Student made to the Doctour before the makynge of this bialoge concernynge the lames of Englande and conference, as appe reth in a dialoge made bytmene them i laryn the zritil.chapitre. And be anfmered alfo to omers other questions that the ftudent maketh to bim in this bialoge of the lame of Englande and con Tcience, and in biuers other chapitres of this prefent bialoge/is touched fhortir home the las mes of Englande are to be observed and kepte in this realme as to temporall thynges as well in lame as in confcience before any other lames. and in fome of the chapiters of this boke is alio touched that fpirituall iuges in owers cafes be bounde to grue their ingementes accordinge to the kringes lames. And in the latter ende of the boke the poctour moueth pluers caff cocernyng the lames of Englande, wherin he bout th how thet mare frande with confcience, morunto the ftudent maketh anfmere in fuch maner as to the reder myllappere.

The introduccion.

Soge in lairn i 3 put divers cases grounded voon the lawes of Englande wherm 3 douted z yet do what is to be holden therm in conscience. But for as inoche as the tyme was then farre past y shewed the that I wolde nat desire the to make answere to them forth with but at some better leasure where vnto thou saydest thou woldest nat only shewe thyne oppinion in tho cases but also in suche other cases as I wolde put i wherfore I pray the nowe for as moche as me thynke thou hast good leasure that thou wylte

Theme me thyne oppunion therin.

Doctour. B will with good will accome plylibe thy beftre but 3 molde that whan 3 am in boute what the lame of this realme is in fuche cafes as thou fhalte put that thou woldeft fheme me what the lame is therm , for though 3 haue by occasion of our firste oraloges lerned many thringes of the lawes of this realme whiche F knewe nat before ret neuert; eles there be many mo thynges that I am ret rgnozaut in and that peraduenture in thefe felfe cafes that thou balt put and intendeft to put and as I faid in the first bialoge in latrn the.rr. chapitre ' to ferche cons fcience voon any cafe of the lawe it is in varne, but where the lame in the fame cafe is perfytly knowen. CStudent. 3 myll wuth good myll vo Zi.ü.

The introduccion.

as thou fayelt and I entende to put biuers of the fame queltions that be in the last chapitre of the faid dialoge in latyn/and fomignie 3 intende to alter some of them and to adde some newe questions to them suche as I shall be mooft in boute of. Doctour. 3 pray the bo as thou fayelt and 3 fhall with good wyll eyiher make answere to them forthwith as well as I can or take lenger reforte to be adupfed/oz elles perado uenture agre to thrne oppinion therm as I shall fe caufe. But firfte 3 molde gladig knome the cause why thou hast begon this vialoge in the Englyfide tonge and not in the latyn tonge as the first cases that thou besirest to knowe myne oppinion be in / oz in frenche as the fubit aunce of the lawe is. (Student. The caufe is this. It is right necessarye to all men in this realme bothe spirtuall and temporal for the good ordes rynge of their confetence to knowe many thyns ges of the lame of Englande that thei be ginos raunt in. And though it had ben more pleafaunt to them that be lerned in the laten tonge to have hadit in latyn rather then in Englyffher ret nes pertheleffe for as moche as many can rede Ens glyffhethat vnderftande no latyniand fome that can nat rede Englysshe by herynge it redde may lerne owers thynges by it that thei sholde nat lerne if it mere in latyn. And therfore for the profite of the multptude tt is put in to the Ens glyffhe tonge rather the into the latyn or frensche tonge. for yf it had ben in frenche feme

sholde have understande it but thei that be lers ned in the lawe and they have leest nede of it, for as moche as thei knowe the law in the same casses without it, and can better veclare what considered will therupon, then thei that knowe nat the lawe nothings at all. To them therfore that be not lerned in the lawe of the realme is this treative specially made; for thou knowest well by suche studye as thou hast taken to have some knowlege of the lawe that it is to them moost expedient. Doctour. It is trewe that thou sayst and therfore I praye the nowe procede to thy questions.

The first question of the student. The first chapitre.

Student. If tenaunt in tayle after possibilite of issue extincte do wast whether both he herby offende in conscience though he be not punysha

ble of wast by the lawe.

Doctour. Is the lawe clere that he is nat punpsthable for the waste. Student. re veryly Doctour. And what is the lawe of tenauntes for terme of lyfe or for terme of yeres if thei do waste. Student. Thei de punysthable of waste by the statute and shall yelde treble damages but at the comen lawe before that statute thei were nat punyshable. Doctour. But whether thikest thou that before that statute thei might have done waste with conscience by cause the

The first chapitre.

Dere nat punyffhable by the lame. (Student. I thynke natifor as I take it the bornge of the make of fuche pertyculer tenauntes for terme of lyfe or for terme of veres/or of tenauntes in bos mer: 02 by the curteff is phibite by the lam of re afon for it femeth of reafo that when fuch leafes be made or that fuch titles i bower or by the cur tely be gruen by the lame that there to onely gys uen onto them the annuall profites of the lande and nat the houses a trees a the gravel to orgge and carr away wherby the hole profite of them in the revercion fholde be taken amage for ever. And therfore at the comen law for wast bone by tenaunt in comer or tenaut by the courtefy there was puny Thment orderned by the lame by a pro bibicio of mafte mberby thei foolde haue yelded bamages to the value of the waste. But against tenant for terme of lyfe or for terme of yeres lay no fach probibicion for there was no marime in the lame therin against the as there was against the other. Zno 3 thynke the caufe mas, for as moche as it mas tuged a folye in the leffour that made fuche a leafe for terme of lyfe or for terme of veresthat at the tyme of the leffe be byde nat probibite them that thei fholde nat boo mafter and frth be ord nat prouide no remedre for bim felfe the law myl none prourde. But ret Ithrine ke nat that the entent of the lame was that thet myabte lamfulle and with good confcience boo wafterbut against tenauntes in bower and by the curtely the lawe proutded remedyerfor thet had

their tytle by the lawe. Tooctoure. And veryly me thrukerb that this tenaunte in tarle as to boinge of mafte fholde be lyke to a tenaunt for terme of lyfe / for he shall baue the lande no lenger then for terme of his lyfe no more then & tenaunt for terme of lyfe fhall , and the walte of this tenaunt is as grete burte to him in the res uercron or remayndre as is the walt of a tenaut for terme of ly ferand if he alien the bonour shall entre for the forfetture as he shall vpon the altes nacion of a tenaunt for terme of lyfe , and if be make befaute in a precipe quod reddat the bos nour shalbe recepued as he shalbe voon the be . faute of a tenaunt for terme of Irfe and therfore me thinketh he shall also be punyifhable of mast as tenaunt for terme of Irfe fhall .

If he aliene the bonour fhall Student. entre as thou fayft breaufe that altenacion is to his bisheritaunce and therfore it is a forfeys ture of his eftate, and that is by an auncient marine of the lawe that grueth that forferture in that felfe cafe , and if be make befaute in & Precipe quod reddat, he in the reverció as thou farft fhalbe recepued but that is by the flatute of westmynstre feconde forat the comon lam there was no fuche recepterand as for the flatute that grueth the accion of walte against a tenaunt for serme of life a for terme of yeres it is a ftatute pe nall and fhal nat be taken by equiterand fo there is no remedie gruen againft bim nerther by coe mon lam noz by ftatute as there is agaift tenaut

The first chapitre.

for terme oflyfe, therfore he is vnpunyffhable of waite by the lame. @ Boctour. And thous ghe he be nat punyifhable of waite by the lame! ret neuer theles me thrnke he may nat by confet ence bo that that Thaibe burtefull to the enberys taunce after his tyme/fyth he bath the lande but for terme of his lyfe no more then a tenaunt for terme oflyfe mareifor then he sholde boo as he wolde nat be bone to , for thou agreeft thy felfe that thoughe a tenaunt for terme of lyfe was nat punyffhable of mafte before the ftatute that ret the la we tuged nat that he myght rightfully and with good conference bo walte. And therfore at this baye if a feoffement be made to the vie of a man for terme of lyfe thoughe there lye no ace cron agarnit him for mafterret be offendeth cos fcience if he do wafte as the tenaunt for terme of Irfe orde afore the statute when no remedie lare agarnst him by the lawe. (Student. That is true , but there is grete omersytie bytwene this tenaunt and a tenaut for terme of life for this tee naunt hathe good authorite by the bonour to bo waite and fo hathe nat the tenaunt for terme of lyfe as it is faid before. for the eftate of a tenaut en tayle after poffibilitte of yffue extincte is i this maner. ([when landes be gruen to a man and to his wyfe and to the begres of their two bodies begotten and after the one of them byeth with out herres of their bodyes begotten , then he or the that over lyeth is called tenaunt in tayle afe ter possibilitie of psue extincte bycause there

can neuer be no pollibilite by ony heire that may inherpte by force of that grit. And thus it appe reth that the bones at that tyme of the gyfte res cerued of the vonour effate of enhergrauce whis che by possibilitie myght haue cotynued for euer wherby thet had power to cut bowne trees and to bo all thyinge that is mafte as tenaunt in fee fymple my shie a that authoryte mas as ftronge in the lame as if the leffour that maketh a leffe for terme of lyfe fay by expresse wordes in the lease that the lesse shall nat be punyshable of mafte. And therfore if the bonour in this cafe had graunted to the vones that thei fholde nat be puurfhable of wafte, that graunte had ben porde breaufe it mas included in the grft before as it sholde be woon a gyfte in fee symple : and fo for as moche as by the first grite and by the Ire uerey of feafon made vpon the fame , the oones had auctorpte by the bonour to bo wafte. There forethoughe the one of the bones be no we beed without yffue fo that it is certerne that after the beth of the other the lande shall reverte to the bonour , yet the authorite that thet had by the bonour to bo mafte contynueth as longe as the grfte and the leverer of feafon made voon the fame contynueth and I take this to be the reafo phy he shal not haue i arde as tenaut for terme of lyfe fhall , that is to fay , for that he can nat afke belpe of that marime , wherby it is orders ned that a tenaunt for terme of lyfe fhall have in ayderfor he can nat fay but that he toke a greter

The feconde chapitre.

eftate by the lyuerer of feafon that was made to him which ret contynueth then for terme of lyfe End fo & thinke bin nat boude to make any refts tucion to him in the revercion in this case for the mafte. Doctour. Is thy mynde to proue that this tenaunt is nat boude to make restitucion to bi in the reverció for the wast or that thou thyns keit that he may with clere cosciece vo all maner of walt. I Student. Fentende to proue no more but that he is nat bounden to restitucion to bim in the revercion. Tooctour. Then I myil rrght well agree to thrue appinion for the reas fon that thou hafte made but yf thy mynde had ben to have proved that he might with clere con fcience haue bone all maner of mafte. A molde haue thought the contrary therto, and that the tenaunt in fee frinple mare nat boo all maner of waste and bestruccion with conscience/as to pull Domne boufes and make paftures of Cittes and townes / 02 to 500 fuche other actes whiche be against the comon welthe. And therfore some wyll fare that tenaunt in fee fymple maye nat with consequence wylfully bistrope his woodes. and cole pittes wherby a hole countrey for their money may have had fuel. And ret though he bo to be is nat bounden by conscience to make reftio tucion to no perfon incertayne but nome 3 pray the or thou procede to the fecode cafe that thou mylte fombat shewe me what thou meanest whe thou farft at the comon law it was thus or thus. I onderstande nat fully mhat thou meanest by

that terme at the comon lawe. TStudent. I fhall with good wyll fhewe the what I meane therbr. T what is ment by this terme whenit is faid thus it was at the comon law. The feconde chapitre. W Student. The comon lame is tas ken thre maner of wates. firft it is taken as the lame of this realme of Englande bifcemereth from all other lames and vnder this maner tas ken. It is ofte times argued in the lames of Englande what matters owe of right to be bes termined by the comon lawe and what by the admiralles courte or by the fpirituall courte. And alfo if an obligacion bere bate out of the re alme , as in Sparne , fraunce , or fuche other, It is faide in the lame and trouth it is that thet be nat pleadable at the comon lame. Secondely the comon lawe is taken as the kynges courtes of his benche or of the comon place, and it is fo taken when a plee is removed out of auncyen bemeane for that the lande is franke fee and pleda ble at the comon lawerthat is to fage at the kyne ges courte and nat in auncyen bemeane. And vi ber this maner taken it is ofte times pleaded ale fo in bafe courtes as in courte barons the coffite and the courte of prpouders and fucbe other that this matter or that. rc. ought not to be betermined in that courte but at the comon lame! that is to fare in the kringes courtes. ac.

at Thurdely by the comen lame is vnderftande fuche thinges as were lame before any ftatute made in that point that is in queftio fo that that

The thirde chapitre.

pornte was holden for lame by the generall or perticuler customes and maximes of the realme or by the lame of reason and the lame of god no other lame added to them by flatute oz others myfe as in the cafe before reberfed in the firfte chapitre mh reitis faid that at the comen lame tenaunte by the courtefye and tenaunt in bomer mere puny Mable of mafte that is to fare that before any ftatute of mafte made thet mere pus npffhable of mafte by the groudes and marimes of the lawes vied before the statute made in that pornte but tenaut for terme of lyfe ne for terine of yeres were nat punyifhable by the faid grous bes and marimes tell by the statute remedee was gruen agarnftebem and therfore it is faid that at the comen lame thet mere nat pungffhas ble of mafte. Doctour. I praye the nome proce onto the feconde question.

The seconde question of the student.

The thirde chapitre. 4455 hor de

Student. I say if a man be outlawed and ne uer had knowlege of the sute, whether may the kynge take al his goodes and reterne them in conscience as he may by the lawe. Doctour what is the reason why thei be soffette by the lawe in that case. Student. The very reason is sorthat it is an olde custome z an olde maxime in the lawe that he that is outlawed shall for sets

his goodes to the kring and the cause why that marime began mas this , whon a man had bone a trespace to another or another offence, where fore processe of outlagary lare , and he that the offence was bone to had take an accion againfte him accordinge to the laweryf he had abfented bim felfe a had had no landes , there had ben no remedye agaynfte him, for after the lame of Ens glandeno man ibalbe condempned without ans fwerer or that he appere and myll nat anfwere: excepte it be by reason of any ftatute. Therfoze for the pungif hment of fuch offenders as wolde nat appere to make answere and to be tustified in the kringes courte , it bath ben vied withoute trme of mynde that an attachement in that cafe Sholde be birected agarnite him returnable in to the kynges benche or the comen place, and if it mere returned therupon that he hadde nought wherby he might be attached that then sholde go forth a Lapias to take his person and after an alias Capias and then a Pluries , and rf it were returned vpo euery of the faid Capias that be melde nat be founde and he appered nat the Sholde an Erigent be birected againft bi mbiche sholde have so lenge bare of returne, that fyue counties myghte be holden before the returne therof and in every of the faid frue counties the befendaunt to be folempnely called and if be aps pered natthen for bis cotumacye and bisobedis ence of the lame , the cozoners to grue ingement that he shalbe outlamed wherby he shall forfett

The thirde chapttre.

bie goodes to the kinge and lefe biners other ad uauntages in the lam that nedeth nat here to be remembred . And fo bycaufe he was in this cafe called accordringe to the lame and appered nat it femeth that the kringe hathe good tytle to the goodes bothe in lame and conscience. (Doco tour. If he had knowlege of the fute i very vede tt femeth the kinge hath good trtle in conscience as thou fayft. But if he had no knowlege therof, it femeth nat fo: for the befoute that is aduged in him as it appereth by thrue owne reason is bis contumacye and bisobedience of the lawe , & if be mere ignoraut of the futerthen can there be affraned in him no bifobedience for a bifobedis ence implyeth a knowlege of that he shold haue obered vnto. (Student. It femeth in this cafe that he fholde be compelled to take knows lege of the fute at his perpllifor frih he hathe at tempted to offende the lame itt femeth reafon that hefhalbe compelled to take hede what the lame myll boo againft him for it and nat onely that , but that he sholde rather offre amendes for his traspace then to tary tyll he were sued for it. And so it semeth the ygnoraunce of the sute is of his owne befaute specially syth in the lame to fette fuche ordre that euery man mare knoweif he myll mhat fute is taken againft bim and maye fe the recordes therof when he myll, and foo it femeth that nerther the partye inor the lame be not bounden to grue him no knoms lege thertn. And ouer this I molde fommhas

moue ferther in this matter thus , that thoughe the accion were vntrewe and the betendaunt nat Brure, that pet the goodes be forferted to the kinge for bis nat apperaunce in lame, and als so in conscience , and that for this cause, the kynge as foueraygue and bede of the lame is bounden of Juftice to graunte fuche mittes and fuche procettes as be appoynted in the lame to euery persone that myll complayne be bis fure myle treme or falle and therupon the konge of Justice oweth as well to make processe to bring the betendaunt to ansmere when he to nat grity as when he is gritre and then when there is ius che a marine in the lame that if a man beouts lamed in luche maner as before appereib that he thall forfeite his goodes to the kynge, and makerb noo excepcion whether the accion te treme or varrewe , it femeth that the faid maris of der me moze regardeth the general minifració of tu fo 126. fice then the perticuler rycht of the parite it Et 21: that therfore the propertie by the outlawry and by the faid maxime ordemed for minifracion of Justice is altered and is gruen to the kynge as before appereth in lame and confcience as well as it the accion mere treme. End then the pars tie that is fo outlawed is brinen to fue for bis re medie agarnft him that hathe fo caufed him to be outlawed spon an vntreme accion. [Docs sour. If be baue not fufficient to make recome pence or ore before recouerre can be bad what remedic is then.

The thirde chapitre.

Student. 3 thrnke no remedye and for a fere ther beclaracion in this cafe a infuche other lys ke where the propertie of goodes mare be altes red without affent of the owner. It is to confeys der that the propertie of goodes be not gruen to the owners orrectly by the lame of reason not by the lawe of god but by the lawe of man : and is fuffred by the lawe of reason and by the lawe of god fo to be. for at the begynnynge all goos des were in comon but after thei mere brought by the lawe of man in to a certerne propertie fo that every man might knowe his owner then when suche propertie is given by the lawe of ma the fame lawe mare affrene fuche condicions ppon the propertie as it lyfteth fo thei benat as gaynste the lawe of god nor the lawe of reason and may lawfully take away that it gyueth and appornte home longe the propertie shall cons tynue. And one condicion that goeth with every propertie in this realine is that if he that hathe the propertie be outlamed accordinge to fuche poroceffe as is orderned by the lawer that he Thall forfette the propertye to thekynge, and bis uers other cafes there be also whereby propers tie in goodes shalbe altered in the lawe and the ryght in landes alfo without affent of the owner mberof I fhalfhortly touche fome mithout laps enge any auctorite therm , for the more fhores nes. first by a fale m open market the propertte is altered. Alfo goodes folen/and feafed for the kynge or marued be forfette oneleffe appele or

enditement be fued. Alfo ftrages if thei be prop claimed the nataff claymed by the owner with in the pere be tortetter and also adeodand is fors fette to whome fo euer the propertie was before excepte ti belonged to the kynge and fhaibe bil posed for the foule of him that was flagne there with and a frue with a noneclarme at the como lawe mas a barreticlagine mere nat made with in a pere as it is now by ftatute if the clayme Le nat made mithin fpue geres Andalltheie fore fetrures were orderned by the lawe vpon cers tarn confideracions which 3 ompt at this tyme but certerne it is that none of them was made vpon a better confideracion then this forfetture of ourlawarre mas . fo z if no ipeciall puny Theo ment fholde haue ben orderned for offeders that motde abfente them felfe and nat appere when thet were fued in the kringes courtes many futes in the kringes courtes fholde haue ben efeffecte. And fyth this maxime was orderned for the ere cucion of Juffice and as moche bone therm by the comon lame as policie of man coulde reafos nablye beute to make the partie haue knowlege of the fute and nome is added thereo by the flas tute made the frete pere of king lizenry the vin. that a mirtte of proclamation (balbe fued if the partie be owellyinge in another thine it femeth that suche trile as is gruen to the kynge therhy regood in conference especially sernge that the Wyng ie bounden to make processe ppo that his myle of the playnirfe and may not eramine but B. t.

The fourth chapitre.

by the plee of the partie whether the furmife be true or not. But if the ptie be returned pirmes called where in bede he was never called as in thefeconde cafe of the lafte chapure of the faide bialoge in laten is contarned, then it femeth the partiefhal have good remedie by pericion to the king fpecially if be that made the returue be nat fufficient to make recompence or pre before reco uerve can be bad. f Doctoure. Rome fith & baue berde thyne oppinion in this cafe mberby it appereth that many thringes mufte be fene oz a full a playne beclaracion can be made in this behalferand fernge also that the plame answere to this cafe fhall grue a grete lyght to buers of ther cafes th at mar come by fuche forferure. 3 Dray the gue me a terther refpute or that 3 fbem my full oppinion therin There after I fbal right gladly vo it. And therfore I pray the nom pros cede to fome other cafe .

The thirde question of the fudent.

Student. If a straunger do maste in landes that another holdeth for terme or lese muchout assent of the tenaut, whether may he in the rever cion recover treble damages a the place wasted against the tenaut for terme of lyte according to the statute in conscience, as he may by the lame of the straunger benat sufficient to make recompende for the maste done, a woctoure, as the

lame clere in this case that he in the revercion that recouer against the tenaunt for terme of lyfe thoughe that he affented nat to the boying of the walte. of Student. ve verily and retif the tenaunt for terme of lyfe had ben bounden in an obugacion in a certarne fome of money that he fholde vo noo wafte be fholde nat forfette bis bonde by the mafte of a ftraunger, and the owers fine is this. It hathe ben vied as an auncient maxune in the lame that tenaunt by the courtes fie and tenaunt in bower fholde take the lande with bis charge that is to fave, that thei fole de bono mafte them felfe ne to fume none to be bone and when an accion of walte was gruen after againfte a tenaunt for terme of life, thenne mas be taken to be in the fame cafe ias to that popute of malte as tenaunt by the courtefie and tenaunt in comer mas i that is to fare ibat be fholde po no maste noz suffre none to be bone for there is another marine in the law of England that all cafes like vnto other cafes thatbe Jus ged after the fame lame an other cafes be, and fub no reason of owerfitte can be affraned why the tenaunt for terme of hie after an accion of waste was gruen agarnste brin sholde hane any more fauoure in the lawe denthe tenaunt by the courtefre or tenaunt in bomer foolde sperfore he is putte vuder the fame maxime as ther be that is to faye that be shall bo no malte ne suffre none to be bone and foo tefemeth that the lame in this case bothe nat confrder the habritire

B. 4.

The fourth chapitre.

of the person that both the malte whether he be able to make recopence for the wast ornat. But the affent of the faid tenaures mberby thei bate pylfully taken voon them the charge to fe that no mafte fhalbe bone. I Doctour. 3chaur berd that if houfes of thefe tenautes be biltroied mith fodayne tepeft or with ftrauge encines that thei fhallnet be charged muh maite. & Student. Trouth it is. I Doctoure. And Ithrike the reafote bycaufe ther can have no recoverye over Student. I take nat that for the reafon but that it is an olde reasonable marime in the lawe that theif hold be offcharged in thofecafes how be it some mylfar that in those cases the lawe of reason both oischarge the and therfore that fav that if a ftatute mere made that thei fholde be charged in those cases of walterhar the statute were agarnft reason and nat to be observed but pet neverthelelle I take it nat for for they myght refufe to take fuch eftate if thei molde/andiribet well take the ftate after the lam made at femeth reasonable that ther take it with the charge and with the condicion that is appoynted therto by the lame thoughe hurtemraht folome them afs termarde therby for it to often tymes fene in the lawerthat the lame ooth fuffre him to haue burt muthout belpe of the lame that myll mylfully renne in to it of his owne acte nat copelled there to and stuged it his folye fo to renne in to it . for phiche foly comonly also he shalbe wit bout res medie in confcience. Be if a man take tandes for

terme of lyfe and byndeth him felfe by obligas cion that he shall leve the lande in as good cafe as he tounde it if the houses be after blowen bowne with tempelt or outroped with ftraunge enemies as in the cafe that thou balt put before he shalbe boude to repaire them or elles be shal forfeite bis obligacion in lam and conscience by caufe it his owne acte to bride him to it and yes lame molde nat haue bounde him therto as thou halt faide before. Some thrinketh ihat the caufe why the faid renaunt, be oifcharged in the lawe in an accio of maft mben the houses be bistroged by fodavne tempeft oz by ftraunge enemtes to by a special reasonable marime in the lawe wherby thet be excepted fro the other general bonde bee fore reherfed that thet fhall at their peryl fe that no malte shalbe bone and nat by the lame of rea fon and frib there is no maxime in this cafe to helpe this tenaut ne that he can nat be holpe by the lame of reasonit femeth that be fhalbe char ged in this cafe by his owne acte i bothe in lame and confcience whether the ftraunger be as ble to recompence bim ornat. I Boctour . 3 boute i this cafe whether the maxime that thou spekelt of be resonable or nat that is to fay , that tenauntes by the curtefp and tenauntes in bower were bofiden by the comon lawe that thei fold bo no walte them felfe and ouer that at their pes ryll to fe that no mafte sholde be bone by none other. for that lawe femeth nat reasonable that byndeth a man to an impossibilitie. And it is ime

The fourth chapttre.

11.09

fraungers, for it mape be sonapnir bone in the night that the tenasties can have no notice of or by grete power that theire nat able to respster and thertore me thynke their oughte nat to be chargeed in those cases for the waste one less their maye have good remedie over. And then percase the said maxime were sufferable and elss me thynketh it is a maxime against reason.

CStudent. As 3 haue faid before no man fhall be compelled to take the bonde voon him but he that well take the lande and if he myll take the lande it is a reafo he take the charge as the law bathe appoynted with it and then if any burte growe to him therby it is throughe his owne acterand his owne allene. Doctour. Though s man may refuse to take estate for terme of life or for terme of ycres, and a moman maye refuse to take her bomer yet tenant by the curtefie can nat refufe to take his effate for immediatly after the bethe of his wyfethe possession remaineth ftyll in him by the acte of the lame without ens tre and then 3 pur the cafe that after the beibe of his wrie he wolde werve the possession and after waste were vone by a stranger: whether thynkest thou that he shold answere to the wast Student. I thynke he sholde by the lawe. Doctour. And how Randeth that with reald fernge there is no vefaute in bim. I Student. It was his befaute 2 at his owne peryll that he wold mary an enheritrice whernpo fuch babger

The fyfth chapitre.

50. xus

myght folowe. Doctoure. Pout case that he were withi age at the mariage of that the lande biscended to his write after he maried her.

T Student. There thou mouelt a feriber boute then the first question is and though it were as thou fareft ret thou caneft nat far but that there to as grete ocfaute in bim as is in bim in the res uercion and that there is as gretereafo why he fholde be charged with the mafte as that he m the revercion fholde be oifherited a have no res mediene yet profite of the lande as the other harbir though the faid marine may be though very ftratte to the faid tenautes yet it is tobe fa uoured as moche as thet may be reasonably/bro caufe it helpeth moche the comon welthe , for it hurteth the comon welth gretely when woodes 7 houses ben bistroyed and if thei fold answere for no wast but for wast bone by them felfe there mrght be wafte bone by ftraungers by there cos maundementor affent in fuche colourable mas ner that thei in the revercion sholde never have proue of their affent. (Doctour. 3 am content thrne oppinion frande for this tymerand 3 pray the nowe procede to a nother question.

The fourth question of the Audent.
The frfth chapitre,

of Student. If he that is the very herre be certified by the ordinarie bastarde zafter bring an accion as herre agaruste another persone.

The fufth chapitre

whether may any man knowynge the trouth be of countarie with the tenaunt and plede the faid certificat agarnite the bemaundamit by confers ence or nat . a Boctoure. De the lawe in this cafe that all other agarnft whomethe bemauns Daunt hathe tytie fhall take advauntage of this certificat as well as he at whofe fute he is cere tifted baftarde. @ Student. Te verity and that for two caufes wherof the one is this. There is an olde maxime in the lame that a myfcheit fhal be rather fufred then an inconvenience and then in this cafe if another writte Tholde afterwarde be fent to another by Thop in another accion to certifie whether he were baftarde or nat perade venture the byffhop wolde certifie that be mere multer that is to far lawfull begotte and then he fholde recover as beire and fo petholde in one felfe courte be taken as multer and baftarde for suordring of whiche contrartofitte the law wyll fuffre no mo writtes to go forth in that cafe and fuffereth alfo all men to take aduauntage of that certificate rather then to fuffre fuche a contras diceion in the courte whiche in the law is called an incouentence. And the other caufe to bycaufe this certificat of the by Thop is the hyghelt trie all that can be in this behalfe. But this is nat vn derftade but where baftardte is layde in one that is partie to the matte , for if baltardie be land in one that is effrange to the writte as in a vouche pray an ayde or fuche other then that baltardie Thatbe tried by rif men by whiche triall be in

whom the baltardie is larde Thall nat be conclus ded bycaufe be to nat pryuy to the trial and may baueno attarnte but be that is ptie to the vilue mar have attarnte a thertore be foalbe conclus ded and noue other but he , and for as moche as the faid marine was orderned to efcheme an in convengence as before appereth it femeth that euery man lerned, may with confcience plede the faid certificat for auordringe therof and grue counfaple therm to the partie accordinge to the lame, for clies the fatde incommentence muste nes dely folow. But vet neuertheles & do not meane therby chat the partie maye after when be bath barred the beinaundaunt by the faid certificat re tarne the lande in confetence by reason of the faide certificat for thoughe there be no lame to compell bim to reftoze it ret 3 thrnke well that in conscience be is boude to restore it if be know that the bemaundaunt is the very treme begree wheref I have put buers cafes lyke in the zvu. chapitre of our first bialoge in laryn but myne en tent is that a man lerned in the lam in this cafe ? other lyke maye with confcience grue his couns farle accordinge to the lamenn auoydring of fue che thynges as the lawe thynketh sholde for a reafonable caufe be fbewed. T Doctour. T boue ghe be that knoweth nat whether be be baltard or natimar lawfully grue his confarle and piede the faid certificat. yet 3 thike that be that knos weth hi to be the very true herse mare nat plede strand that for two causes wheref one is this.

The fifth chapitre.

Euery man is bounde by the law of reason to do as he wolde be bone to i but I thynke that if he that pledeth that certificat were in like cafe , he wolde thrate that no man knowrage the faide certificat to be ontrewe might with conscience plede it agarnft bin i wherfore no more mar he plede it again t none other. The other caufes is this all thoughe the certificat be pleded ret is the tenaunt bounden in confcience to make reftis tucion therof as thou haft faid thy felferand the in cafe that he moide nat make reftitucion , then he that pledeth the plee tholde renne therby in like offence for he bathe holpen to fet the other man in fuche a libertie that he mare chofe whes ther he mpll restore the lande or nat , and so be sholde put himfelfe to the teoperdie of another mannes cofcience. Andit is written Ecclefraftic. til. Qui amat periculum peribit in ilio, that is be that welfully well put bim felfe in leoperdie to offende fhall perpffhe therm And therfozett 18 the furest may to eschem perplies and as for the incourmence that thou ferst must nedely folower but the certificat be pleded as to that it may be answered that it mare be pleded by some other that knoweth nat that he is the very berze and if the cafe be fo furre put that ther is none other terned there but he then me thynketh be fhall rather fuffre the faid inconvengence then to burt bis owne conference , for almaye charite begyne neth arhimfelfe and fo every man ought to fuffre all other offences rather then he him felfe fholde

Thefreit chapitre. foris.

offede. And now that thou knowest men oppinion this case I pray the peede to another questio.

The sprit chapter.

TStudent. whether niay a man with confeis ence be of counfayle with the playniffe in an ace cion at the comon lame knowyinge that the bes fendaunt hathe sufficient matter in conscience wherby he mare be offcharged by a Sub pena m the Channeerse whichehe cannat pleade at the comon lame or nat. Doctoure. 3 prage the putte a cafe therof incertarne for elles the queltion is very generall. (Student . 3 wyll put the fame cafe that thou putteft in oure firfte bialoge m laren the tenth chapitre that is to fare if a man boundern an obligacion pare the money and taketh none acquitaunce fo that by the comon lame he fhal be compelled to pare the money agayne for liche confideracione, as appereit in the rv. chapitre of the faid bialoge where was hered endently how the law i that cafe to made opo a good reasonable groude mos che necessarie for all the people how be uthat a man mey Comryme thrugh his owne vefaut take burte therby wherm I pray the shewe me thyne oppino. Doctour. This cafe femeth to be like to the cafe that thou half purnert before this : & that he that know eth the payment to be made both hat as he wold be some tout he guie coufell that an acc. shold be take to have te pared ageing

The feconde chapitre.

TStudent. If he be smorne to grue counfaple accordynge to the lam as fergeautes at the law beitt femeth pe is bounde to grue counfarte acs cordynge to the lawe for elles be foold nat pers forme his othe. Doctour. In those wordes accordrige to the lawe is vinderstande the lawe of god, and the lame of reason as mel as the lam and cultomes of the realmerfor as thou halt faid. thy felfe in our fuste dialoge in laten the lame of god and the lame of reason be two especial grou des of the lawes of Englande, wherfore as me thynketh he may grue no counfayle faurng his othe neyther against the law of god not the law ofreason and certayn it is that this article that to far:that a manfpal oo as he wolde be bone to/18 grounded poon bothe the faid laires, and first that is grounded wpon the lame of reason it is euydent of it felfe. Bud in the vi chapitre of Luke it is faid. Et prout vultis vt faciant vobis homines et vos facite illis similiter. That is to fare all that ye myll that other men Tholde bo to rous bo you to thems and fo it is grounded your the lame of god wherfore if he sholde grue coun farle agarnst the pefendaut in this case he shold bo agaynft bothe the faid lames. @ Student. Af the befendaunt bad none other remedy but at the comon lame I wolde agree well it were as shou farit:but in this case he may have good res medy by Sub pena 12 this is the may that fhall enduce bum orrectly to that way . Tooctoure. Choughe the befendaunt may be bischarged by

Sub penamet the bringing i of his proffes there myll be to the charge of the befendaunt and also the proffee may ore or ther come in. Bifo there is a groude in the law of reason. Quod nibil pos flumus contra veritatem. That is to far me may bo nothynge agaynft the trouth , a frib he know meth that the trouth is that the money is payde he mayero nothinge against the trouth, and of he sholde be of counfagle with the playntyfe be muste suppose and aucroe that it is the very bue bette to the playntyfe, and that the befendaunt withboldeth it from him vilawfully whiche be knoweth him felfe to be vntreme wherfore be may nat with conference mithis cafe be of couns farle with the playntyfe wherfore if thou be co tented with this answere I prarthe procede to foine other queltion. @ Student. 3 mpll mith good wyll, so not a od danod I allocate The Later of he than theely it ought in conferred

The seventh question of the frudent. The feuenth chapitre.

mens no man may with one tence grue couler. (Student. B man maketh a feffement to the pfe of him? of his herzes, and after the feffour putteth in bis bestes to manure the grounde and the feffe taketh them as bamages fefauute and puttetl) them in pounderand the feffour bringeth an accion of trefpas agayuft hum for entrynge in to his groundered whether may any wanknos wruge the fand wie be of counfagle with the feffe to anoyde that accion. Doctour. War be

The feventhehapitre.

by the comon lame anorde that accion feruge that the festourelought in conscience to have the profites. @ Studency ve verily enforms to the comon lawe the bole mereft is in the fefferand if the feffe myll breke bis confcience zitake the pro fices the feffour bathe no remedie be abacomon tame, but is oriuen in that cafe to fue for his res medie by Subpena for the pfiteare to caufe hou to refeffe bum agayne and that was fointime the most comon cafe where the Subpena was fued that is to far/before the fratute of Bich ande the thurde but fith that ftature the feffour mar lame fully make a foffement. But neuertheles for the profites recemedabe fetfour bath ret no remedie but by Subpena as he had before the faid ftatut And to the supposell of bis accion of trespas is with eme in every parte as to the comon, lame. T Boctour. Though the accion be vittue as to the lameryet he that fueth it ought in confeience to have that he bemaundeth by the accion , that is to fare bamages for the profites and as it fes meth no man may with confcience grue couferil agaynft that be knoweth confcience wolde baue bone Student. Thoughe conference molde befbolde haue the profites , per confcience in yll that for the attaynying therof the fellour Sholde make an ontreme formpiet Therfore agarnite el) at votrome furm ple cuery man may muth cons fctence grue his counfeyleifor in that bornge be refiftethnat the plaintyfe to babe the profites! but be withftandeth him that he fhold nat mayn

terne an vntreme accion for the profites. And it fuffifeth nat in the lam ne ret in confetence as me femeth that a ma haue right to that he fueth for but that also be sue by a juste meanes / 7 that be haue both good right alfo a good za true con ucyance to come to his right , toz if a man have right to landes as heire to his fader a myll zing an accion as heire to bis moder, that never bad right euery man may grue confarle agailt ibat accion thoughe be kno we be have right ty anos ther meanes it fo as me thynketh be mare boin bilatories wherby the partie may take burt'if it were nat pleaded though he know the playnigf baue right as if the partie of the towne be nigis named or if the begrees in writtes of entrie be myfraken ibut if the partie folde take no burre by admyttynge of a oilatorie there be that knos weth that the plaitife bath right mag nat piede that bilatorie as in a formedone to plede in abas temet of the writte breause be hath nat made hi felfe beire to bithat mas laft feafed or ia mente of Right for that the bemandaunt hath omitted one that tended right ne fuche other, ne he may nat affent to the callyinge of an effon not protece bath rightine he may nat vouche for bim ercepe it be that he knoweth that the renaunt bathe a true cause of voucher z of lyeniz that he both te to birng hi therto/zi like wrfe be may narpray in arde tot him oneleffe be knowe the pray have right bryings hat his accion accordings to the

The feuenth chapttre.

good cause of voucher and tro oz that he know that the pray hathe fourmhat to plede that the tenannt mare nat plede as vylipnagem the des maudaunt or suche other. Woccour. Lhous she the playntyfe hathe brought an accion that is voureme and nat mayntenable in the laweivet the ocfendaunt both mionge to the playnerfe in the withholdinge of the profites as well before the accion brought as hanginge the accioniand that wronge as it femeth the counfartour bothe magnierne: and alfo Theweth bin felie to fauour the partie in that wronge when he grueth couns farle agaynst the accion. @ Student. If the playntife Do take that for a tauour and a mayne tenauce of his wronge be tugeth ferthertheihe caufe is given fo that the confeylour vo no more but grue coufagle agayn't the accion for though begrue him countarte to withfrande the accion for the vutrueth of it, and that he tholden at confelle it and to make therby a frue to the kringe without cause , yet it maye stande with , that he maye grue counfarte to the partie to felde the profites and therfore I thenke he may be of con farle with him at the comon lawe and be against bun in the chauncerre and in eriber courte grue bia countayle mithout any contrartofice or burte of conscience: and open this grounde it is ibit a man mate with good conference be of confarle with him that hath lande by biscent of by a bis contribution title if he that hathe the right bignge nat his accion accordyinge to the The erght chapure. 50.xvil.

The seventh question of the student.

CStudent. If a man take a biftreffe for bette voon an obligacion or voon a contracte or fuche other thrug that he bath right title to baue but that he ought nat by the lame to biffrayne for tt/ meuertheles he kepeth the fame biftres i peude tril be beparde of bis butie , what restitucion to he boude to make in this cafe/whether that he repay the money bycaufe he is come to it by an vulamblull meanes or onely to reffore the ptie for the mongfull takynge of the biftreffe or for ners ther. I Doctour. what is the lame in this cafe. Student. Thathe that is buftrepned maye birng a speciall accion of trespas in this case as gaynft him that biftreyned : for he that toke his beeftes wrongfully and kepte them tril he made afrie and therfore he shall recover that frie in bamag as he shall bo for the resydue of the tres pas for that takying of the money by fuche come pulcion is taken in the tam but as a fpne miongs fully taken thoughest is his outse to have it. Doctour. verthoughe he map fo recouer me thynketh that as to the repaymet of the money he is nat bounde therto in confcience for that he take no more then of right he ought to have: for though he come to it by an vitult mene, yet whe the money is payde bim it is his right/and be is

E.I.

The eyght chapitre.

net bounden to repaye it oneles it be couered as thou haft faid, and the when he hath repayde it be is as me thynketh reftored to his first accion but to the redelyuer of the beeftes with fuch bas mages for fuch burte as he bath by the oiftreffe. I suppose be is boude to make recopence of the an conference without compulcion or fute in the lame for thoughe he myghte lawfully baue fued for bis outie in fuche maner as the law bath ors red ret he mar nat take rpo hi to be his owne suge and to come to his butie agamite the ordre of the lam and therfore if any hurte come to the partie by that bifordre bets boude to reftoze it. but 3 molde topnke it mere the moze boute if a man toke fuche a biftreffe for a trefpas bone to bim z kepeth the biftreffe tyll amendes be made for the trefpas , for in that cafe the pamages be nat incerteyne but be arbitrable either by affent of the parties or by .xy. men , and it femeth that there is no affent of the partie in this cafe fpecis ally no fre affent for that he both is by compuls cion and to have bis biffres agayne, and foo his affent to nat to be pondred in that cafe, foz al the affeffrage of him that toke the diffreffe and fo be bathe made bim felfe bis owne inge and that is probibited in all lames / but in that cafe where the oiltreffe to taken for bette he to nat his owne nuge for the bette was suged incerteyne afore by the firste contracte , and therfore some thrike grete biuerfitte bytmene the cafes. (Student. But by that reason it semeth that if be that by

fragneth in the first case take any thringe for his bamages that be is bounden in confcience to res fore it agayn for bamages be arbitrable and nat certarne no moze then trefpas:18 and me femeth that bothe in the case of trespas and bette he is bounde in conscience to restore that be takethe for thoughe he ought in right to have like fome as he recepueth , yet he ought nat to have that money that he recepueth for he came to that money by an ynufte meanes wherfore it femeth he ought to reftoze it agarne. Tooctour. And if he shold be copelled to restore it agayn, sholde he nat ret for that he recepued it ones be barred of his first accion nat withstandinge the repays Student. I myll nat at this tome clerely alloyie the that question but thus I myll fare that it any burte come to him therby it is throughe his owne befaute for that he wolde boo agaynfte the lame but nevertheleffe alys tell 3 myll fare to thy question that as me fee meth when he hathe repared the money that he te restored to hie firste accion. Be if a man cons bempned in an accion of trespas pave the mos ner and after the befendaunt reuers the tuges ment by a maytte of errour and haue his money repardente the playmife is restored to bis first accion and therfore if he that in this cafe toke the money restored that he toke by the mrongful bifreffe or that he ordred the matter fo lyberals ly that the other murmure nat ne complayne nat at trithat he byd very wel to be fure in cofcience

L.ü.

The nynth chapitre.

and therfore I wolde adupte every mã to be well ware how he distrepneth in suche case agapuste the law. O woctour. Thy cousayle is good and I note moche in this case that the partie mare have an action of trespas agapust hi that distraphed so that he is taken in the law but as a wrong boer, and therfore to paye the money agapus is the sure waye as thou hast said before. And I praye the nowe show for what thyrise a man maye lawfully distraphe.

Tor what thynge a man may lawfully bistrayne. The ir chapitre.

TStudent . A man may lawfully bistrayne for a rent feruyce and for all maner of feruyces as bos mage/fealtie/escuage/fute of court /relieffes/and fuche other. Alfo for a rent referued vpo a grite in taple , a leafe for terme of lyfe , for Teres or at wyll if he referue the revercion the feffoure Thall bistrarne of comon right though there be no or Areste fooken of. But if aman make a feffement in fee by indenture referuynge a rente be fhall nat biffreyn for that rent oneles a biffreffe be exprefe ly referued and if the feffement be made without bede referuynge a rent that referuacion is voyde in the lawe and he shall have the rente onely in conference and fhall nat bifrayne for it and like lame is mbere a gyfte in taple or a leafe for ters me of lyfe is made the remarnder over in feeres

feruynge a rente that that referuacion is voyde tu the lame. And fo tf a man feafed of landes for terme of lyfe graunteth away his hole estate res ferurnge a rente that referuacion isvorde in the lam mithout it be by indenture, and if it be by ins denture yet he (hal nat outrayne for the rent but a biltreffe be referued. Alfo for a merciament in a leete the lorde fhal biftrayn/but for a merciamet in a court Baron he fhall nat biftreyne. Alfo if a man make a leafe at Dyghelmas for a vereires fcruyng a rent payable at the feeft of the Annuns ciacion of our lady a faint 20 ygbel tharchangel in that cafe he fhall biftrarne for the rente oue at our lady bay but nat for the rent one at Myghel mas bycaufe the terme is expired. But if a man make a leafe at the feeft of Chipftenmas to ens dure to the feelt of Charltenmas nerte folowing that is to fave for a rere referuringe a rent at the forefard feelt of the Annunciacion of our lady t farnt Myghell the archangell there he shall or Arayne for both rentes as longe as the terme co tynueth, that is to fape: tyll the forefaid feeft of Chapftenmas. Talfo if a man haue lande for terme of lyfe of Joha at Hoke and make a leafe for terme of reres referuynge a rente / that rente is behynde Bohan at Hoke biethithere he fhall nat biltrarn bycaufe his revercio is betermined. Talfo if he tombole vie feffes be fealed maketh a leafe for terme of reres or for terme of lyfe , or agyfte in tayle referurng a rent / there therefers uacion is good and the lessoure shall oistrarne.

The nynth chapitre.

IT Alfo if a townefhyp be a mercied and the nevghboures be affente affeffe a certayne fome ppon every inhabptaunt and agree that if it be nat payde by fuche a pay that certagne perfones therto affgned shall outreyne. In this case the biftreffe to laufull if lorde and tenaunte be and the tenaunt holdeth of the lorde by fealtte and rent, and the lorde graunteth amare the featire referuringe the rent , and the tenaunt attourneth in this cafe be that was lorde may nat oifragne for the rente , for it is become a rente fecke. But if a man make a gyfte in tayle referurnge fealtie and certarne rent: and after that he grau teth awaye the fealtie referupage the rente and the revercion to him felfe in this cafe be fhall bistrapne for the rent for the graunte of the feals tie is voyde, for the fealtie can nat be feuered fro the revercion . Blfo for heriot feruyce the lorde shall distrayne and for heriot custome he fhall feafe and nat viftragne. Alfo if a rente be affrgned to make a particion or affrgnement of somer egall he or the to whome that rente 18 affigued maye biftrarne and in all thefe cafes as boue faid where a man mare bifragne be mare nat piftrayne in the nyghte , but for bamages fes faunteithatis to faye mbere beeftes bo burte m his grounde he maye biftragne in the nrght. Als fo for mastes for reperacions for accomptes for bettes vpon contractes or fuche other no man may laufully bifrayne.

The tenth chapitre. 50. 223 The vig question of the student. The tenth chapitre

TStudent. If a man bo a trespas and after make his executours and bye before any amene des made whether be his executours bounde in conscience to make amendes for the trespasses thet have sufficient goodes therto though there be no remedie agaynft them by the lame to come pell them to it. Doctour. it is no boute but thei are bounde therto in conscience before any other bede of charrie that thei mare bo for bim of their owne benocion. I Student. Then wolde 3 mytte if the teftatoure made legacies by his myllimbether the executoures be bounde to bo firfte that is to fare to make amendes for the trefpas or to pare the legactes in cafe thet baue no goodes to bo bothe. Toctoure. To pare legacies i for if thei Tholde firfte make recompence for the trefpas , and then baue nat fufficient to pare the legacies thei fholde be take in the law as mafters of their teltatours goodes for thet were nat compellable by no law to make amendes for the trefpas bycaufe euery trefpas breth with the pfon:but the legacies thei folde be compelled by the lame spirituall to fulfyll, and fo thei sholde be compelled to pare the les gactes of their owne goodes , and thei fhall nat be compelled therto by no lame noz conferences but if the case were that he leve sufficient goodes to bo bothethen me thynketh thei be bouden to

The tenth chapitre.

bo both that thet be bounde to make amendes for the trespas before thet may bo any other cha ritable bede for the teltatour of their owne myne as 3 haue faid before excepte the funerall expen ces that be necessarte whiche must be alowed be fore al other thenges (Student . And what the prournge of the the testament. Doctour. The ordinarie mare nothinge take by conscience therfore if there be nat sufficient goodes be frde to paye the bettes and tomake reftitucion . And i likewife the executours be bounde to pay bettes vpon a fiple corract before ant other bede of charite that thei may bo for their teltatourof their owne benocion though theifhall nat be co pelled therto by the lame. (Student. And whe ther thrukeft thou that thei be bounde to bo first that is to fayer to make amendes for the trefpas or to paye the bettes pon a frinple contracte. Doctour. Toparethe bette for that is cere tarne and the trefpas te arbitrable. (Studet Then for the playner veclaracion of this mater and other like I prave the fheme me thy mynde by what law is it that a man may make executou res and that the executours if thei take vpo the be bounde to perfourme the myll and to bifpos fe the goodes that remarne for the testatour. Doctour. I thynke that it is by the law of rea fon. a Student. And me thenkett folde be rae ther by the custome of the realme. I woctour. In al coutres 7 in al landes thet make executo's T Student. That semeth to be rather by a gene

rall custome after that the lawe and custome of proptie was brought in/then by the lame of rea fon for as longe as all thynges were in comon there were no excutours ne wylles ne thei neded nat them and whe propertie was after brought in methynketh that yet makinge of executours and offpofrng of goodes by myl after a mannes bethe folomed nat necessarilie therupon for it mrght haue ben a lame that a man fholde haue had the propertie of his goodes only ouring his lyfe and then his bettes payderal his goodes to have ben lefte to his myfe and chyldren or nexte of his kyn without any legacies makyng therof and fo mrght it nome be ordayned to be by flas tute and the ftatute good and not agarnite reas fon wherfore it appereib that erecutours baue no authorite by the law of reason but by the law of man. And by the olde law and custome of this realme a man may make executours and bispofe his goodes by his myl, and then his executours Thall have the execucion therof and his beyres Thall baue nothyngibut if any perticuler custome beloe. And the executores shall also have the hole poffeffion and orfpolicion of all his goodes and catalles as well reall as perfonall , thoughe no morde be expresty spoken in the wyl that thes fhall have them: and ther fhall have also accion to recover al bettes oue to the testatour thoughe all bettes and legacies of the testatoure be paved before and thall have the bisposicion of them to the yfe of the teltato; and nat to their owne yfe

The tenth chapitre.

and fo me thynketh that the auctorite to make executours , and that thei fball pispose the good des for the teltatour is by the custome of the rea sime. But then I thynke as thou fayeft that by the lame of god theifhalbe bonde to bo that firit that is to the mooft profite of the foule of their teltatour where the oisposicion therof is lefte to their differection, and that 3 agre well is to paye bettes voon contractes and to make amendes for wronges done by the testatoure thoughe that be nat compelled therto by the lame and cultos me of the realme if there be none other bette not legacie that thei be bounde to paye by the lame but if the bettes be payable by the lawe thenne whiche bette thei Tholde voo firste in conscience 3 am sommbat in boute. Toctour.

Let vs firste knowe what the comon lawe is therm. I Student. The comon lawe is that if the testatour owe to two men severally by obeligacion of by suche other maner that an accion lyeth againste his executoures therof by the lawe, and he leveth goodes to paye the one and nat bothe, that in that case he that can firste obstepneth his sugement agaynste the executoures shall have execution of the hole, and the other shall have nothings; but to whiche of them he shall m conscience owe his savoure the comon lawe treateth nat. I soctoure. Therm muste be considered the cause why the betten be gan, and then he muste after conscience here his lawfull savoure to him that hathe the clereste

caufe of betterand if bothe baue like caufe, then in confetence be muste bere his fanoure where is mooft nede and greteft charitie. (Student. Mar the erecutours in that cafe belaye that ace cion that is firfte taken if it ftande nat with foo good confcience to be pande as another bette wherof no accion is broughte and procure that an accion may be brought therof and then to con feffe that accion that he may fo have execucions then the executo's to be bischarged against the other. & Doctour. why mar be not in that cafe pay the other without accion a fo be bischarged in the law agarnft the firft. [Studet. Ho verily for after an accion is taken the executours mare nat ministre the goodes forbut that be leve fo mo che as shall pare the bette wherof the accton is taken, and if he boo he shall pave it of his owne goodes i excepte another recouer and haue mo gement agaynfte him hangynge that accion and that without courn. Tooctoure. Then to thy question / 3 thynke that by belayes that be lawfull as by effon / emperlaunce / or by a bte latorie plee in abatemente of the mitte that is treme / be maye belaye it i but be maye pleade noo vutreme plee to preferre the other to his butte. But I prape the what to the lame of les gactes refitucions and bettes vpon contrace tes that percase oughte rather after charite to be pared then a bet vpon an obligació what may the fayour of the fatd executo's bo in those cases

Ehe tenth dapitre.

TStudent. Hothynge for if thet eyther pforme legacies make reftitucions: oz pape bettes vpon contractes and kepe nat inficient to pare bettes whiche thei are copellable by the lame to payer that ihalbe taken as Deuastauerunt bona testa. toris that is to fare that thei have mafted the goodes of their teftato? and therfore thei fpalbe copelled to pay the bettes of their owne goodes and fo it is if thei pay a bet wpon an obligacion wherof the bare is yet to come thoughe it be the clerer bet and that it be the more charite to haue at parde. Doctour. yet in that cafe if he to whom the bette is all redy owynge forbere tyll after the day of the other obligacion is pall , the he maye par him mithout vaunger. @ Student That is true if there be no accion taken vpon it though there be pet if that accio may be belated by lamfull meanes as thou halt spoken of before tyll after the bay t then an accion is taken vpon it then may the excutours confesse that accion/ z then after ugement he may pay the bet without baunger of the lame. Toctour. 38 nat that cos feffyng of the accion fo bone of purpole a courn in the lame. TStudent. Ho verily/for courn is where the accton is vntrewel and nat where the executours bere a lamfull fauour. Toctour. The ordinarie voon the accompte in all the cas fes before reherfed mpil regarde moche mhat is befte for the testatoure. @Student. But he mayenat bryue them to accompte agaynfte the ordre of the comon lame.

The .u. question of the student The. ri.chapitre.

Zudent. A man is indetted to another vos a femple contracte.in. rr.li. a be maketh bis well and bequetheth. rr. li.to Wenry Werte, and breth and leueth goodes to his executours only to burte bun with and to perfourme the faid les gacterand after the faide executours belyuer the goodes of their teltatour in performaunce of the faid bequest whether is he to whom the bequest is made bofide in confcience to pap the faid bette vpon the fymple contract to the faid bent bert or nat. @ Doctour. Is nat he boube therto by the lame. O Student. Ho verily. Toctour. And what thynkest thou he is in conscience. (Student. 3 thinke that he is nat boude therto in conscience for be is nerther ordinarie , admis niftratourinoz executoure, and I haue nat herde that any man is boude to pay bettes of any man that is biffeffed i but he be one of those thre i for the goodes that the teltatour lefte to the execus tours were never charged outh the bette but the perfon of the testatour whyle he lyued was only charged with the bette and nat his goodes and his executours that represent his estate after his beth hauvinge goodes therto of the testatours be charged also with the bettes and nat the goodes And therfore if an executoure grue aware or fell the goodes of the teltatoure or otherwrie mafte

The eleventh chapitre.

them he that hathe the goodes to not charged with bettes in lame not confcience, but the execu tours fhalbe charged of their owne goodes and in like wife if Johan at Moke ome to. A. B. rr. h.and B.B.oweth to C.B.rr.h and after B. B oreth intestate haurnge none other goodes but the faid. tr. pounde, whiche the faide Johan at Roke oweth himi vet the faid. E. D. Shall haue no remedie agarnfte the faid Johan at Hoke for bestandeth nat charged to him in lane not cons fcience. Butthe ordinarie in that cafe mufte com myt administracion of the goodes of the faid H. B. And the faid administratour muste leure the money of the fatd Johan at Hoke and page it to the faid C.D. And the faid Johan ar Boke Shall nat pay it hi felfe bycaufe he is nat charged ther with to him , and no more me thynketly in this cafe that be to whome the bequeste is made is nerther charged to him that the money was of wynge to in lame nor confcience. Doctour. Then theme me thy mynde by what lawe it is grounded as thou thynkest that executoures be bounde to pare bettes before legacies , whee ther is it by the lawe of god ot by the lame of reafon or by the lame of man.

Student. I thynke that it is bothe by the lame of reason and by the lame of god for reason myll that thei shall be firste that is beste for the testatoure, and that is to page bettes that be is bounden to before legacies that he is nat

bounte to.

IT And also by the lame of god thet are bounden to pay the bettes. first for fith thei are bounden by the lame of god to love their nerghbour thet are bounde to bo for bim that fhaibe befte for bim when thei have taken the charge therto, as executours to when thei agree to take the chara geof the wyll of their teltatoure vpon them, and it is better for the teltatoure that his bettes be pared wherfore his foule that fuffre parne then that his legacies be perfourmed mherfore be fhall fuffre no payne for the nat perfourmynge of them. And that is to be underftande mbere the legacie is made of his owne free well and nat where it is made as a fatiffaccion of any outie. And after the favenge of faint Bregorpeithe ves rie treme proffe of loue is the bede. But ibis man is nat in that cafe, for be never toke the charge vpon hun to paye the bettes of the tellas toure. And therfore be is nat bounde to them in lame not confcience as me femeth. But ras ther the executoures sholde have ben ware or thei had pared the legacies fernge there were bettes to pare.

Doctour. The executours myght none other wyfe baue bone in this cafe but to paye the legas cies for them thei fholde haue ben compelled by the lawe to have payde, and fo thet coulde nat haue ben to have parde the bette vpon a cone tracte. Andtherforethet orde well in perfours mmg of legacie but be to whom the legacie was made ought nat to have raken them but oughte

The eleventh chapitre.

in consciece to have suffred them to have gone to the paiment of the bette and fuh he orde nat fo but toke thematt femeth that when he toke them he toke the with the charge in confcience to pay the bette for futh the executours were compellas ble by the lame to perfourme the bequest and nat to pare the bette therfore when thet performed that bequeffithet mere bifcharged therby agaift him that the bette was owinge to in lawe and conference and then the charge refted vpon him that toke the goodes where he ought nat incons fcience to haue taken them but if it had ben a bet ppon an obligacion or fuche other bette impers ppon remedie myght haue ben had againfte the executoures by the lame there I suppose that thoughe the executours had perfourmed the les gacie that yet he to whom the legacie was made and performed had nat ben charged in cofcience to payment of the better for the executoure flode firll charged therto of his owne goodes, and he to whom that bequest was made was only boud in cofcience to repay that he recepted to the exe tour bycaufe be bad no right to have recepued it for agarnft the excutour be had no right therto. T Student. Then fo it femeth in this cafe that in like myfe he to whome the bequest was made fhold repay that he recepted to the executours, and then thet to papit rather then be. T Docto? The executours have no ferther medlyng with it as this cafe is for when thei perfourmed the be quefte thet mere bifcharged againfte bothe the other in lawe a conscience and also be to whom the bequeit was made ftode nat in this cafe char ged to the executours, for as againste them be had good tytle by the lame, and foo his charge standeth onely agarnste him that the vette is os wynge to: and the fame lawethat to in this cafe vpon a bette vpon a contracte 18/1f the teltatour had bone a trespas wherupon he ought to have made restituction that is to fay, that he to whom the bequest was made is bounde to make the as mendes for the trespasse, for it sholde be no oils charge to bim to paye it agayne to the crecus tonrs without theip are it over, and it were ons tarne to him whether thet wolde pare it or nat. And therfore to be out of perril it is necessarre that he payett himfelferand then is be furely oif charged agaynfte all men.

The.r.question of the fludent. The twelfth chapitre.

WStudent. A man fealed of certarne lande in his bemeane as of fee hath yffue two fones and byeth feafed after whofe bethe a ftraunger abas teth and taketh the pfites , and after the eldeft fone oveth without yffue and his brother birns geth an affyfe of mortdaunceftre as fone a berre to his father nat makyuge mencion of his bios der and recovereth the lande with bamages fro the bethe of his fader as he mare well by lawer whether in this cafe the yonger broder beboude

20.1.

The twelfth chapitre.

in conscience to pare the executours of the ele deft broder the value of the profites of the faid lande that belonged to the eldeft brother in bis lyfe oz nat. @ Doctour. what is thyn oppinio therin. f Student. That is like as the faid pro. fites beloged of right to the eldelt broder in bio Irferand that he had ful auctorite to haue relea fed as well the rigt of the faid lade as of the faid profites, whiche releffe Sholde haue ben a clere barre to the ronger broder for euer. That the right of the faid bamages/whiche be in the law but a chatell belonge to his executours and nat to the berze for no maner of chatel nerther real noz personall shall nat after the lame of the res alme oiscende to the berre. @ Doctour. Thou fardelt m the cafe nexte before , that it is nat of the lame of reason that a man maye make eres cutours , and bispose his goodes by his myll, z that the executoures shall have the goodes to bispose but by the lame of man , and if it be lefte to the beterminacion of the lame of manithen in fuche cafcs as the lame gyueth fuche chatelles to the executours thei hall have good ryght to them land in fuche cafe as the lame taketh fus che chatelles fro them , thet be rightfully taken fro them. And therfore it is thought by many that if a man fue a mirtte of Brght of marde of a marte that he hath by his owne fee and oreth bangynge the waytte , and his herze fue a refos mons accordinge to the flatute of m. u. and res

conerithat in that cafe the herze fall entoy the mardefirp againg the executours land retit is but a chatell, and thei take the reason to be bys cause of the said estatute and so might it be ore verned by flatute that all wardes folde go to the hetres and nat to the executoues. Arght fo in this cafe frth the lame is fuche that the rons ger broder thall in this cafe haue an afiffe of mortdaunceftre as bepre to bis fader ingt mas kinge any mencion of his elder broder and reco uer damages as well in the tyme of his broder as in his owne tyme . it appereth that the lawe grueth the right of the fatd bamag to the hetre and therfore no recompece ought to be made to the executours as me femeth and it is not like to a writte of Brle where as I have lerned fith our first braloge the bemaundaunt shall recover bas mages onely fro the beth of his fader if he over lyuc the Hyle I and the caufe is for the bemauns baut though his Ayle ouer lyued bis fader muft of necestre make his connergunce by his fader and muste make bim felfe fone and begie to bis fader and coffn and berze to his Erlerand ther fore in that cafe if the fader over lyued the Byle the abatour were bouden in coscience to restore to the erecutours of the fader the profites renne in his tyme, for noo lame taketh them fro bim, but othermyfeit is in this cafe as me femeth. Student. If the vonger broder i this cafe bad entred i to the lade without taking any affife of mortdaficeftre as he myghtifhe wold ito whom

D.4.

The .rif.chapitre .

Dere the abatour then bounden to make restitus cion for those profites after thene oppmion.

Doctour. To the excutours of the eldest brose derifor in that case there is no lame that taketh them fro them, and therfore the generall groude phiche is that all chatels shall go to the execustours holders in that case, but in this case that grounde is broken and holders nat for the reassion that I have made before lor comoly there is no generall grounde so sure but that it sayleth in some perticular case.

The.ri.question of the student.

TStudent. A man scafed of lande in fee taketh a wrfe and after alieneth the lande and oreth af ter whose bethe his myfe afketo ber bower and the aliene refuseth to allygne it vinto ber but afs ter fbe afaeth ber bower agarn and be affraneth it vnto ber / whether is the aliene in this cale bounde in conscience to grue the woman bamas ges for the profites of the lande after ber thirde parte fro the beth of her bufband oz fro the firft request of her bower ior nerther the one nor the other. T Doctour. mhatis the lam in this cafe. Student. Br the lawe the woman Shall reco uer no bamages , for at the comon lawe the bes mandautin a mutte of oomer fholde neuer haue recourred bamages / but by the statute of 2Dare ton it is orderned that where the hufband bieth feased that the woman shall recover bamages whiche is understande the profites of the lande spit the beth of her husbande and suche bamas ges as she hathe by the forberrage of it but in this case the husbande byed nat seased wherfore she shall recover no bamages by the lawe.

(Doctour. Vet the lame is that immediately after the bethe of the hufbande the myfe ought or right to have her bower if the afke it, though ber hufvande bred nat feafed. [Student. Zhat is treme. (Doctour. And frth fhe ought to baue her bower fro the bethe of her hufbande u semeth that she oughte in conscience to haue alfo the profites fro the bethe of her hufbande though the haue no remedie to come to them by the lawe , for me thynketh that this cafe is like to a cafe that thou putteft i our first oraloge in la tyn the rvi.chapitre : that if a tenautfor terme of lyfe be biffeafed and bye, and the biffeafoure breth, and his hepre entreth and taketh the pro fites and after he in the reverció recovereth the landes agaynft the hepre as he ought to boo by the lamerthat in that cafe he fhal recouer no bas mages by the law and ret thou agredeft that m that cafe the beyze is bounden in confcience to page the bamages to the bemaundaunt and fo me thynheth,i this cafe that the feffe ought in co fcience to pay the bamages fro the bethe of her bufbande feyng that immediately after his beth the ought to have her bower. Student. Though the ought to be endowed immediately

The .xiű.chapitre.

after the bethe of her hulbanderget the can lage no befaute in the feffe tyll De bemaunde her bos mer voon the grounderand that the tenaunte be nat there to affrguett outfhe be there that he myll nat affygne itifor be that hath the poffeis fion of lande wherunto any woman hath title of bomer hathe good auctorite as agaynit her to take the profites tril the require her bomer for every woman that bemaudeth bower affermeth the poffettion of the tenaut as agarnfte her, and therfore all thoughe the recover it by accion the leueth the reversion in him against whom the re covereth though he be a diffefour and bigingeth nat the revercion by her recoverge to him that hath right as other teneutes for terme of life bo And for this reafo it is that the tenant i a weit of bower where the hulbande oped feafed if he ape pere the first bay may fage to excuse hun felfe of bamages that he is and all tymes hath ben redy to yelde pomer if he had ben bemaunded, and fo he shall nat be recerued to bo in a mirtte of cofy nage neyther in the cafe that thou remembreft a boue for in both cafes the tenautes be supposed by the writte to be wronge overs but it is nat fo in this cafe and fo me thynheth it clere that the feffe in this cafe fall nerther be bounde by lawe noz cofcience to yeldebamagi fro the tyme that paffed before the request , but for the tyme after the requeste to gretter boute bowe be it some thynke him nat there bounden to relde bamages bycaufe his title is good as is faid before a that

it is her befaute that We brought nat her accion T Doctoure. As vnto the tyme before the res quest I bolde me content with thyne oppinion fo that he affigne the pomer when he is required, but when be refuseth to affrgne it then I thynke bun bounde in conscience to relde bamages for bothe trines thoughe the Chall none recouer by the lame. And firft as for the tyme after the refu fell:tt appereth eurdently that when he benyed to allygne her bower he byd agaynfte confcience for he oydenat that of righte he ought to haue bone by the lame me as he wolde folde haue be bone to him and fo after the requelte be boldeth her bower fro her wrongfully 2 ought in confcie ence to yelde bamag' therfore. And as to the bes faute that thou affreneft in her that the toke nat her accion that forceth lytel for accios nede nat but where the pue wyll nat bo that be ought to bo ofright, a for that he ought ofrighte to have bone and byd it nat he can take none aduantage and then as to the bamages before the requelte me thynketh hun alfo bounden to paye them for whenne he was required to affygne bower and refuled. It appereth that he neuer entended to relde bower fro the begynninge and fo heis a. meonge boer in his owne conscience, and more ouer if the busbande ore feased the lam is suche that if the tenaunte refuse for to affrane bower whenne he is required, wherfore the woman birngeth a mirtte of bower agarnfte him i that in that case the moman hall recover bamages

The .rid chapitre.

so well for the tyme before the requelte as after and yet he ought nat in that cafe after thyne ope pinton to have relded bamages if be bad ben res dy to affrane bower when it was bemaunded! and fo me thynketh here. of Student. The caufe in that cafe that thou haft put is for that the fta sure is generalithat the bemaundaunt fhall res couer pamages where the bufbande oved feafed and that statute hath ben alwaye construed that where the tenaunt may nat fay that he to t hath ben almar redr to relde bomer. zc. that the bee maundaunt fhall recouer bamages fro the bethe ofher hufbande. But in this cafe there is no lam of the realme that helpeth for the nemaundaunt neyther comon lawe not fracute and ferthermore thoughe it inright be proved by his refusell that beneuer entended fro the bethe of the hufbande to affrgne her bomer ret that proueth nat i but that he had good righte to take the profites of her thirde parte for the tyme as well as he bad of his owne two partes tril requeste be made as te aforefaid , and fo me thynketh that nat withs standinge the benger be is nat bounde to yelde bamages in this case but fro the tyme of the res quelterand nat for the tyme before. @ Doctour. Sor this tyme 3 am content with thy reason.

The ri question of the student. The ring chaputre.

Tudent. 2 man feafed of certagne landes Dknowrnge that another bathe good rright and trtle to them leaveth a fine with proclamas cion to the entent he wolde extructe the ryghte of the other man and the other man maketh no clarme within the. v. yeres , whether maye be that leured the tyne holde the lande in coscience as he maye oo by the lame. [Doctoure. By this queltion it temeth that thou bolt agree that if he that leugeth the fyne had no knowlege of the other mannes right, that his right fholde then be extructed by the frne in conscience.

Student. Ye verilp, for thou bydeft Themes reasonable cause why it sholde be so in our firste bialoge in laten the. rruit chapitre as there aps Capizal pereth. But if he that leureth a fyne and that molde extracte the ryght of another knowyage that the other hath moze right then he then 3 boute therin , for I take thyne oppinion in oure first oraloge to be vinderstand in coscience where he that wolde extracte former rightes by fuch a frne with proclamacion knoweth nat of ant fors mer title but for bis more fuertieif any fuch fors mer ryght be he taketh the remedie that is oze beyned by the lame. Toctour. whether boeft thou meane in this case that thou puttest nowe that he that hath right knoweth of the frie and mylfully letteth the. v. yere paffe without clays me or that he knoweth nat and thyng of the fyne W Student. 3 pray the let me knowe thrne ops pinton in bothe cases and whether thou thynke

The xvichapitre.

that he that hathe right be barred in eyther of the cases by coscience as he is by the law or nat. Doctour. I will with good will hereafter shewe the my mynde therm, but at this tyme I pray the grue a lytell sparying and procede now to some other question.

The.rif.question of the student.

Student. A man fealed of certayne landes in fee hath a boughter whiche is his herie appea peraunte , the boughter toke an busbande a thei baue plue, the fader opeth feafed , and the bufs bade as foone as he hereth of his beth goth tos warde the lande to take possessio , and before he can come there his wyfe opeth whether oughte be to haue the lande m cofcience for terme of his Irfe as tenaunt by the curtefre bycaufe that he bath done that in hi was to haue had polleffion m his wyues lyfe fo that he myght haue ben tee naunt by the curtefre accordyinge to the lame to: that he fhall nerther haue it by the lame noz cos fcience. T Poctour. it is elerely holden in the lam that he fhal nat be tenaut by the curteffe m this cafe bycaufe he hath nat poffeffion in bede. TStudent. ve verily and ret vpon a polleffion in lawe a woma fhall haue ber bower:but no ma fhalbe tenaunt by the curteffe of lande without bis wyfe have possession in bede. I Doctour.

M man fhall be tenaunt by the curteffe of a rent though his worfe ore before the bay of payment and in like myfe of an advoufon though the ope before the auordaunce. & Student That is trouth for the olde custome and maxime of the lame withat be Wall be for but of lande there is no maridie ferueth him but his write hath poffef fion in ocde. I Doctour. And whatis the reas fon that there is suche a maxime in the lame of the rente and of the advouson rather then of lande when the bufbande bothe as moche as m hi is to haue poffeffion and can nat. (Student Some affygne the reafon to be bycaufe it is im. possible to have possession in bede of a rent or of a voulon before the pare of parment of the rent or before the anordannce of the appouron.

Woctoure. And fo it is impossible that he Thall baue poffeffion in bede of lande if bis myfe bye fo foone that he may nat by possibilite come to the lade after ber faders beth, and in ber lyfe as this cafe is. (Student. The lame is fuch as I have the wed the before and I take the vee ry caufe to be for that there is a marine ferueth for the rente and the aduouson , and nat for the landes as 3 have faid befozerand as it is faid in the. viú.chapitre of our first pialogert is nat als way necessarie to affrane a reason or confidiras cion why the maximes of the lawe of Englande were first orbeyned a admitted for marines/but it fuffifeth that thei haue be almar take for lame a that thei be nether cotrary to the law of refor

The .xv.chapitre.

not to the lame of god as this maxime is nat / ? therfore if the hnibande in this cafe be nat hole pen by conscience he can nat be holpen by the lame. Doctoure. And if the lame helpe bim nat confcience can nat belpe bim in this cafe! forconscience muste alwaye be grounded rpon fome lame and it can nat in this cafe be grouns bed vpon the lawe of reason not vpon the lawe of god for it is nat birectly by thofe lames that a man fhalbe tenaunt by the courtefre but by the cultome of the realme. And therfore if that custome helpe him nat be can nothinge haue in this cafe by conscience / for conscience never res fyfteth the lawe of man not addeth nothringe to trout where the lame of man is in it felfe oirects ly agarnst the lawe of reason or the lawe of god and then properly it can not be called a lawe but a corrupcion where the generall groudes of the lame of man worketh in any perticuler cafe as gaynfte the fatd lawes as it may bo , and yet the lam of god as it appereth in owers places in our firste braloge rozelles where there is no lame of man prouyded for hi that hath right to a thynge by the lame of reason or by the lawe of god. And then fomtyme there is remedie gruen to execute that in confcience / as by a Sub pena but nat in all cafes , for fomtyme it shalbe referred to the conference of the partie and voon this grounde that is to fare that when there is no title by the comon lame that there is no title by confcience there be busers other cases wherof I shall put fome for an example as if a revercion be grauns ted vnto one but there is none atturnament, oz if a newerent be grauted by worde without bede there is no remedie by confcience oncles the faid grauntes were made ppon confrderacions of money or fuche other , and in likewife where be that is feafed of landes in fee frmple maketh a wyll therof the wyll is voyde in conscience bys caufe the groude ferueth nat for him mherby the confcience (holde take effecte that is to fare the lame and if the tenaunt make a feffement of the lande that he holdeth by prioritte Trakth eftate agarn and bieth his heyre within age, the lorde of whome the lande was first holden by aprio. rite fhall haue no remedie for the bodget r cons fcience for the lame that firfie mas with bim is nome agaynft him/and therfore conference is ale tered in lykemyle as the lawe altereth , and bys uers a many cafes like be in the lame, that were to longe to reherfe nome. And thus me thrnketh that if the law be as thou fayeft the bufbande in thi cafe bath neyther right by law noz cofcience.

The.xvi.question of the student. The.xvi.chapitre.

Estudent. Arente is graunted to a man in fee to perceyue of two acres of lande, and after the grauntoure enfesseth the grauntee of one of the said acres, whether is the hole rente extruct therby in conscience as it is in the lawe.

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Doctour. Thy case is sommhat uncertayner for it appereth nat whether the grauntoure ens feffed him on trufte or that be gane the acre to him of his meremocion to the vie of the faid feffe or elles that the feffement was made voon a bar garnerand if it were but only a feffement of truit/ then I thrnke the holerente abrdeth in confcie ence thoughe it be extructed in the law and firft that it concenneth in that case in conscience / for that pte that the grautee hathe to the vie of the grauntourit is euydent for he may nat take the profites of the lande and it is agaruft cofcience that he sholde leefe bothe and in likewise it aby beth in conscience for the acre that remayneth in the handes of the grauntour for there was a bee faute in the grauntoure that he wolde make the feffement to the grauntee as well as there was in the grauntee to take it And it is no confetence that of his owne befaute he sholde take fo grete auayle to be oifcharged of the hole rente fernge that the feffemente was to his owne vie.

And if the feffement were made voon a bargayn and a contracte bytwene them them them to se whether their remembred the rente in their bars gayne or that their remembred it nat and if their remembred it nat and if their remembred it in their bargayne and contracted then conscience muste followe the bargayne as thus if their agreed that the grauntee sholde has ue the rente after the porcion in the other acre theme by conscience he ought to have it though it be extyncted in the laws. And if their agreed

that the hole rente sholde be extructe and made their price according then it is extructe in law and conscience and it thei clerely forgette it and made no mencion of it is for lacke of connynge toke the lawe to be that it shold contribue in the other acre after the porció and made their price accordinge i pondrynge onely the value of the acre that was solde i then me thynketh it bothe contribue in conscience after the porcion and if the festement were made to the vse of the graste then it semeth the hole rente is extructe in lawe and conscience. (Student. Then take that to be the case: that is to saye, that the festement was made to the vse of the grauntee.

Doctour. what is then there oppinion therm Etudent. That the rente sholde abyde in conscience after the poscion nat withstandinge it be extende in the lawe. Doctoure.

Then hewe me thrne oppunion in this that I hall aske the. Of what lawe is it that grauntes of rente and of suche other profites out of landes may be made and that thei shall be good and effectuall to the grauntees, whether is it by the lawe of reason or by the law of god or by the cue stome r law of the reason. Student. I throke it is by the lawe of reason, for by the same reason that a ma may grue away all his landes he may as it semeth grue away the psit; therofor grafit a rente out of the lande if he will. A woctour. But thenne by what lawe is it that a man maye

grue aware his landes , I trome by none other lame but by the cultome of the realme, for by ita tute all altenacions and grites of landes may be prohibiterand the that reason proueth nat that grauntes of the profites of lande or of a rente sholde be good by cause he may aliene the lander if allenacions of lande be by cultome and nar by the lawe of reason as I suppose ut is / wheref I touched sommbat i our first praloge in larrathe rir. chapitre. And alfo if grauntes sholde haue their effecte by the lame of reason then reason wolde that they shold be good by the only word of the grauntour as well as by his bedes, a that to nat fo for without bede the graunte of rent is porbe in the lame and fo me thynketh that graff tes baue their effecte onely by the lame of the re alme. I Student. Edmytit to be formhat mea nest thou therby of Doctour. I shall sheme the bereafter as 3 shall shewe the the cause why 3 thrike the rent is ertricte in confcience as well as in lawe. And first as I take it the reason m' y it is ertracte in the lawe is bycaufe the rente by the first gramte mas goynge out of bothe acres and, was nat goynge parte out of the one acre ? parte out of the other , but the bole rente mas gornge out of both and then when the grauntee of his owne folge wri take effate in the one acre wherby that acre is orcharged then the other as ere also mult be bischarged onelessett sholde be apporcioned and the lawe well nat that any aps porcionement sholde be in that cafe , but rather

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in as moche as the partie hath by his owne acte bischarged the one acre , the lawe also bischars geth the other rather the to futfre the other acre to be charged contrarte to the fourme of the graunte for this rente begynneth all tythe acte of the partie and is called a rente sgarnit the co mon right. wherfore it is nat fauoured i the law as a rente ferupce is/and then me thynketh that for as moche as it is nat grounded by the lawe of reason that grauntes of rente foice be made out of lande but by the custome and lame of the realmeras I haue faid befozerthat fo in like ife it remarneth to the lame and cultome of the res alme to betermine home longe suche rentes Wait contynue and when the lawe tugeth fuche rens tes to be worde that fo bothe confcience alio, ex cept the ugement of the law be agarnft the law of reason or the lame of god as it is nat in this cafe fo that if he that taketh the feitement bath profite by the feffemente, and knoweth that be hath fuche arente out of the landerand that his purchace folde extructe in for then be affenteib to the lawe wherto he was nat compelled and that is his owne acte and his owne befaute fo to boimbiche fhall extyncte bis holerente as well in conscience as in the lame. Butif be baue noo profite of the lande or be rgnoraut that be bath fuch a rent out of the lande whiche is called vas noraunce of the bede or if he be ygnoraunt that the lame molde extyncte bis bole rente therby whiche is called ranotaunce of the lawithen me

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The evi. chapitre.

thynketh it remarneth in coscience after the poscion. I Student, ranozaunce of the lawe or of the bade helpeth nat but in seme cases i the law of England. Doctour. And therfore it must be reformed by conscience, that is to say by the lawe of reason, for when the generall maximes of the lawe be in any perticular cases agaynste the lawe of reason as this maxime semeth to be bycause it excepteth nat them that be yanozaunt though it be an yanozaunce in vyncyble then bo

theinor agree with the lawe of reason.

f Student. De thynketh that vgnotaunce in this cafe belpeth lytell for when a ma breth any lande or taketh it of the grite of any other he ta keth it at h perplo that if the title be nat good ignozatice ca nat helperfor the byer muft bemare what he breth and fo in this cafe if the takringe of the one acre folde extrncte the hole rente in conference if he were nat ranor aunt, fo me thyna Beth it folde in lyke mife ertyncte it alfo though be be renoranut of the lame or of be bede / for every man must be compelled to take notyce of his owne trile and out of what lande his rente is gornge, and foo me thynketh renoraunce is but lytell confidered in this cafe. I Doctour. of a man bye lande or take it of the gyft of another it is reafo that he take it mith the perglibough be be renoraunt that another hathe right/for it mere nat fradyng mith reafo that his rgnozauce Molde extracte the ryght of another but in this

cafe there is no boute of the right of the lander but al the poute to how the rent maibe ordred in conference if be that bath the rent take parte of the lander therm is grete owerfitte brimene bi that is renorate and bim that knoweth the law and knoweth alfo that he bath a rent out of that lande and other for I put cafe that he afked cou fayle of the grantour bim felf therm and he fays enge as he thought totile him that the taking of the one acre fholde nat extynct the roght but roz the porcion, and to be throking the lam to be, toke the other acre of his gyfte. suit nat reafos nable inthat cafe that that ponotaunce Wolde faue the rente in conscience. (Student. ves for the grauutoure him felfe ispartie to his ygo notaunce and to ut maner the cause therof.

Woctour. And me thynketh all to one tfany other hadde Wened him to or it he had afted no confarie at all for me thenketh it fuffifeth in this cafe that he be renoraunt of the lame, for mhy it is more harde in this cafe to proue that the rente Molde be exignete in conseque thoughe he knowe it halbe extructed in the la weithenne to prove that it controverb in conscience after the position if he be renoraunte, and thou the felfe werte of the fame oppmion as it appereth in the begringinge of this prefente chapitre, but if that oppinion mere true it wold be harde to proue but that the fatd generall maxime were holly agaguite reason , and thenne it were voys de, but & have fuffycyentely answered theres

E.ü.

The roll chapitre.

as me semeth that it is extracte in the lawe and also in conscience/excepte ygnoraunce helpe it to be apportioned And more over sor as moche as apportionment is suffred in the lawe where pre of the lande discendeth to the grauntee bycause no befaute can be assygned i hun so me thynketh no befaute can be assygned in hun in conscience when he is ygnoraunt of the lane or or the beder thoughe suche ygnoraunte bo hat excuse in the lawe. A Student. I am contente with thyne oppinion in this behalfe at this tyme.

The.rv.question of the student. The. rvy.chapitre.

TStudent. 2 man graunteth arente charge out of the acres of lande and after the grauns toure enfeffeth Ibenry Iberte in one of the faide two acres to the vie of the faide benry ferte and of his berzes and after the faid Denry bert entendringe to extructe all the rente caufeth the faid acre to be recovered againft bi to his owne pfe in a wrytte of Entre in the poste in the name of the grauntee , and of other after the comon courfe : the gratitee nat knowinge of it and by force of the fatd recoverye the other bemandan tes entre and bre lyuynge the grauntee fo that the grauntee is feafed of all by the furueyoure to the vie of the faid henry Werter whether is the faide rente extencte in confcience in parte oz in allot in no parte. [Doctoure. 3 am in boute

of the lame in this cafe. TStudent. In what pornte. Doctour, whether the hole reme be gorng out of the acre that remarnerh in the han bes or the grauntoure bycaufe the grauntee cos meth to the lande by may of recourrye or that et Dalbe extructe in the lawe but after the pors cion bycaufe the grauntee hathe nat the acre to his owne pferoz that the hole rent faibe extinct in the lame. CStudent. The rente can nat ve hole gornge out of the acrethat the grauntoure hath for this recoverye is spon a farned tytler the grautoure bycaufe be is ftraunge to it Walbe well recepted to falfffre it. But if the recouerye had ben voon a treme trile, then it had ben as thou sayeit i forif the grauntee recouer the one acre agaynft the grauntour pon a true title the grauntoure hall paye the hole rente out of thit lande that remaineth in his handerand as to the pfe tt maketh no matter to the grauntoure as to the lame in whome the vie ber for the poffession without the vie extragur Meth the hole rent as agaynft him in the lame as well as if the poffels fron and wfe were bothe torned togrder in the grautee. Coctour. Then me thynketh that the fatd Benry Bert is bounden in conscience to pare the grauntee the rente after the porcion of that acre that mas recouered for itca nat ftande with conscience that he fold lecfe his rent and haue no profites of the lande. C Student. Then of whom hall he haue the other porcion of his rent. Doctour. Is the law clere that the acre

The.rviichapitre.

that the grauntoure hathe Malbe in this cafe Difchaged in the lame. I Student. I take the lamefo. I Doctoure. End what in confcience O Student. As agayufte the grauntoure me thrukethalfo it is extructe in confcience for the reason that thou haste made in the last chapitre for it is al one in cofcience in this cafe as agaguit the grauntoure, whether the recouerre mere to the ple of the grauntee or nat / fpecially fernge that the grauntoure is not preup to the recourty fer the vnitte of poffession is the cause of the exernguy Thement of the rente agaruft the grauns toure bothe in law and confcience where so ever the ve be but if the grauntoure bad ben preuve to the cause of the ertrugur Thement as he was in the cafe that I out in the lafte chapitre mhere the grauntour enfered the grauntee of one of the acres to the vie of the grautee there it is nat ets ernete in conscience in thatacre that remarneth en the handes of the grafitour thoughe it be exo tructed in the lame bycaufe he was preut to the extrague fibment bim felfe but be is nat fo ithis cafe and therfore tris extructe agarufte bim in lame and conscience. And therfore me thriketh that the grautee fal in confcience baue the bole rent of the faid Menri Merte that caufed the faid recoverge to be had in his name for in him was all the befaute but it is to be vinderstande that in all the cafes where it is faid before in this chas pitre or in the chapitre next before that the rent ts extracte in the law, and nat in cocience that

The rvig chapitre.

fo.rrrvi.

in suche case all the remedies that the partre myght first have had for the rente at the comon lawe by Distresse Assis or otherwyse are vetere mined and the prie that ought to have the rent in conscience shalbe vivue to sue for his remedie by Sub pena. I Doctoure. I am content with thy concepte in this matter for this tyme.

The roif chapitre.

TStudent. A vyllerne is graunted to a man for terme of lyfeithe vylleyne purchafeth landes to bim t to his begres the tenaunt for terme of lefe entreth in this cafe by the law he fal entor the landes to him and to his herres , whether fall he bo fo in lykemyfe in confcience. (T Doctour. Me thynketh it first good to fe whether it mare stande with conscience that one man maye clays me another to be his vylleyne and that be maye take fro him bis landes and goodes and put his body in payfon if he wyll it femeth he loueth nat his neyghbour as his felfe that bothe fo to him. TStudent . That law hath ben fo longe vied m this realme and in other alforand hatge ben ads mytted fo longe in the lames of this realme and of owers other lames also and hath be affermed by brilhopes abbottes priours and many other men both fprigtuall and temporall which haue taken aduautage by the faid lame z haue feafed the lande a goodes of there vyllegnes therby a calle it their right enheritaunce fo to bo that I

The.xviii.chapitre.

thruke it nat good i nome to make a boute net put it in argument whether it ftande with cofcie ence or nat and therfore & prage the admittens the lawe in that behalfe to stande with confers ence flew me thyne eppinto in the question that 3 haue made. a Boctour. Is the lam clere that he that bath the vyllerne but onely for terme of lyfe shal have the landes that the vylleyne pure chafeth in fee to him a to his herres. Student pe verily I take it fo. T Doctour I wolde haue taken the lame othermile , for if a feignour pe be graunted to a man for terme of lyfe and thetes naut atturne and after the lande efchete and the tenaut for terme of lyfe entre be (ball haue there none other eftate in lande then he had in the feig nourre, and me thynketh that it folde be lyke lame in this cafer that he oughte to have in the lande but fuch eftate as be bath in the vyllerne. Student. The cafes benat like for i that cafe of the eschete the tenaunt for terme of lyfe of the fergnourge hathe the landes in the Ireu of the fergnourperthat is to fare in the place of the fergnourge , a the fergnourge is clerely extyncte but in this cafe be bath nat the lande in the lyeu of the vyllerne for he hal have the vyllerne ftyl as he had before but le bath the lande as a pro fite come by meanes of the vylleyne witche he Thall have in lyke cafe as the vylleyne had them that is to fave of all goodes and catelles he fal have the bole propertie and of a leafe for terme of reres he hal have the hole termer for terme

of lyfe be fhall baue ibe fame eftate , and of an estate tarire that the vylleyne hathe, the lorde hal haue the lande ourynge the lyfe of the vylo leyne , and of lande in fee fymple the lorde fall haue the hole fee fymple, all though be had the prilepne but onely for terme of yeres fo that be entre or feafe before the vyllerne aliene for elles he fall haue nothynge. (Doctoure. Bertly and if the lame be for I thynke confcience folos meth the law therm for admyttyng that a man may with cofcience have another man to be his vrllerne the tugement of the lame in this cafe is neyther agapult the lawe of reason/noz agapulte the lame god, and therfore confetence muste foo lowe the lame of the realme , but 3 prage the let me make alytell bigreffion to here thrne oppis mion ianother cafe fommhat perceyurng to thy question and it is this if an executour have a vyl leyne that his restatour had for terme of yeres z he purchafeth landes in fee and the executoure entreth in to the lande , what estate bathe be by his entre. @ Student. B fee fimple but that fal be to the behalfe of teltatour and fhalbe an ale feffe in hie handes. Doctoure. well then 3 am contented with thy concerte at this tyme in this cafe and I pray the procede to another question T Student. for as moche as it appereth in this cafe and in fome other before that the knowlege of the lawe of Englande 18 right necessarie for the good orderinge of conscience. I wolde here thrue oppinton if a man myftake the lame what

The .rir.chapitre.

Daunger it is in conscience for mystakynge of it.

Doctour. I pray the put some case in certagn
therof that thou voutest in and I wpl with good
well hewe the my mynde therin for elles it well
be sommhat long or it can be playing veclared,
and I wolde not be tedious in this wrytenge.

The rix chapitre.

TStudent. 23 man had a vyllerne for terme of lyfe the velleyne purchafeth landes in fee as in the case in the laste chappere and the tenaunte for terme of lyfe entreth and after the vyllerne bieth: he in the revercion pretendinge that the tenaunt for terme of lyfe hathe nothringe in the lande but for terme of life of the pollegue afketh counsaple of one that hemeth him that he hath good ryght to the lande a that he mare lawfully entre, and through that coufarle he in the reuer cion entreth/by reason of whiche entre grete sus tes and exspences folome to the grete burte of bothe partes what baunger is this to him that gaue the counfarie. T poctour whether meas nest thou that he that gaue the counsagle gaue et wettengly agarafte the lame or that he mas renoraunt of the law. (T Student . That he mas pgnoraunt of the lame for if he knewe thetame and gaue counfarle to the contrarte I thynke hi bounde to restitucion both to him agayn't shom he gave the countable; and also to the circut if

he wolde nat haue fued but for his counfarle of all that thet be bampnrfied by it. @ poctour. Then m Il I ret ferther afke the this queltion whether he of whome he afked counfarle gaue him felfe to lerne and to have knowlege of the law after his capacite or that he toke voon him to grue counfarle and toke no fludre competent to have lernynge for if he byde foo, I thynke he be bounde in conscience to restitucion of all the coftes and bamages that he fufterned to whom he gave counfarle if he wolde nat have fued but throughe his counfayle. And also to the other partie but if a man that hath taken fu fficis ent fludge in the lame intflake the lame in fome pornte that is harde to come to the knowlege of he is nat bounden to fuche restitucion for he hath bone that in him is/but if fuch a mank nos wrnge the lame grue counfarle agarnste the lame be to bounden in conscience to restitucion of coffes and bamages as thou hafte faid before, and also to make amendes for the vntrouth .

TStudent what if he aske counsayle of one that he knoweth is not lerned and he grueth him consayle in this case to entre by socce where of he entreth. Tooctour. Then be thei both bounden in conscience to restitucion, that is to saye the partie if he be sufficient and elles the counsaylour by cause he assented and gave counsayle to the wrong. The sudent. But what is the counsayloure in that case bounden to , to him

that be gave counfayle to.

The .xix.chapitre.

Doctour. To nothringe for there was as mos che befaute in him that afked the counfagle as in him that gaue it for be afked coufagle of him that be knewe was panoraunt, and in the other was befante for the pfupcion that he wold grue counfayle in that be was rgnozaut in. [Studet But what if he that gaue the counfagle knewe nat but that he that afked it had trufte in bim that he wolde grue him good counfayle z that be asked counsarie to order well his conscience how beit that the truth was nat fo. [Doctour. Then is he that gave the countagle bounden to offre to the other amedes/but vet the other may nat take it in conscience. CStudent. That were fomemb it perpllous for baply be mril take it thoughe he have no right to it except the world be well amended. Doctour. what thrukeft thou in that amendement. If Student. & truft eue ry man myll oo nom in this worlde as thei wold be bone to fpeke as thei thruke / reftore mbere thei haue bone mionge refuse moner if thei baue no right to it thoughe it be offered them/bo that thet ought to bo by confcience thoughe thet can nat be compelled to bott by no lame that none wyll goue counfarle but that thet fal thrake to be accordinge to conference, and if thei borto bo that thei can to reforme it and nat to entermyt the felfe with fuche matters as thei be rgnotaut in but to fende them that afke the counfarle to other that thet hall thynke be more connynge then thet are. Tooctour. It were very well if the

were as thou halt faidibut the more prie is.it is nat almar forand specially there is grete befaut in gruers of counfarte , toz fome for ibere omne lucre a profite grue counfaple to comforte other to fuert bat thet know have no right, but B truft there be but feme of them. And fome for oreder fome for tauoure, fome for malice, and fome vpo confideracions and to have as moche bone for the another tyme to byde the trouth. And some take vponthem to grue counfayle m that thet be renoraunt in and yet when thet know the truth myll nat mithdiame that thei haue myfdone:tos thei thrike it Molde be gretely to their rebuker and suche periones folome nat this counsarle that faut. That me baue vnaduyfedly bone les ve with good aduife reucke agayne. [Studens End if a man grue countable in this realme afo ter his lernynge and confcience grueth bim and regardeth nat the lames of the realme giueth be good counfaple. @ Doctour. If the lawe of the realme be nat in that cafe agarnft the law of god nor agaruft the law of realo he grueth nat good confarte/for every man to bounde to folome the lame of the countree where be is foit be nat a gaynste the fatd lames, and so mare the case be that he may bride him felfe to restitucion.

Dudent. Atthis tyme I well no ferther

trouble the in this question.

The.rvif.question of the student. The.xx chapitre.

The .rr.chapitre.

TStudent. of a man of his meremocion gyue landes to iDenry iberte and to his hepres by ins benture vpon conference that he Mali yerely at a certapne dare pay to Johan at Sirle out of the fame lande a certarne rent and if he oo nat that then it mall be lawefull to the farde Johan at Strle to entre. rc. If the rente in this cafe be nat payde to Johan at Style i mhether maye the faide Johan at Style enter in to the landes by conscience thoughe he maye nat entre by the lame. Doctoure. Ware he nat entre in this case by the lame fyth the wordes of the ins benture be that he fall entre. [Student . Tho verily for there is an auncient marine in the lame that no man Mall take advauntage of a condicion but he that is partie of pryure to the condicion, and this man is nat partie not pryure i wherfore he shall have none aduauns tage of it. (Doctoure. Thoughe he can haue none aduquitage of it as partie ret breaufe it ap pereth enydenter that the entent of the gruer was that if he were nat payde of the rente that be fholde haue the lande. It femetin that in con fcience he ought to haue it thoughe he can nat haue it by the lame. @ Student. In many cafes the intent of the partie is voyde to all ententes if it be nat grounded accordinge to the lame. And therfore if a man make a leafe to another for terme of life and after of his meremocion be cos fermeth hiseftate for terme of lyfe , to remayne after his bethe to another and to bis berzes in

this case that remaindre is voide in law a conficience, for by the lawe there can no remaindre bepende upon no cliate but that the same estate beginneth at the same tyme that the remaindre bother mithis case the estate began before a the continuacion enlarged nat his estate nor gave his no newe estate: but if a lease be made to a ma for terme of another mannes life a after the lessoure onely of his mere motion confermeth the lande to his lesse for terme of his owne life the remain dre over in see/this is a good remaindre in lawe and cosciences and so me thy nketh the entente of the partie shall not be regarded in this case.

Doctour End in the first cafe that thou hafte put me thynketh though it paffe nat by the way of remarndre that ret it hall paffe as by mare of graunt of the revercion : for every bede hall be taken mooft ftronge agaynfte the grauntoure and the taking of the bede in this cafe is an ats turnament in it felf. @ Student That can nat be for he in the remayndre is nat partie to the bede and therfore it can nat be taken by may of grafit of the revercióifoz no grafite can be made but to hi that is partie to the bede except it be by mare ofremaynder / ? therfore if a man make a leafe for terme of irfe and after the feffour graunte to a stranger that the tenaunt for terme of life fall haue the lande to him and to his berres , that grafite is vorde if it be made onely of bis mere mocion . Bud in ly kemple if a man make a leafe for terme of lyfe and after graunte arevercion

The .rr.chapitre.

to one fot terme of lyfe the remayndre ouer i fee, and the tenaunt atturneth to bin that hath the State for terme of lyfe onely i intendynge that he onely folde haue aduauntage of the grafite his intent is vopde and borbe fall take aduauntage therof and the atturnement halbe taken good accordinge to the graunte , and foo in this cafe thoughe the festoure entended that if the rente were nat parde that the ftraunger holde entre pet bycaufe the lam grueth him no entre in that cafe that intent is voyde and the ftraunger fall neyther entre in to the lande by lawe not confcie ence. (Doctour, what shall then be bone with the lande as thou thynkelt after the condicion broken. Student. I thynke that the feffour in this cafe may laufully renter for mhen the feffes ment was made your condicion that the feffe Moldepare a rent to the ftraunger in mordes is included in the lame that if the rente were nat payde to the ftraunger that the feffour fold ren ter for tho wordes: vpon condicion implie foo moche in the lawe thoughe it be nat expressed. And then when the feffoure wente ferther a fayd that if the rente were nat parde that the frauns ger foold entre those wordes were vorde in the law: and fo the effecte of the vede ftode voon the first wordes wherby the fetfoure maye renter in lame and confcience but if the first wordes bad nat ben condicionell I wolde haue holden it the gretter boute. Doctoure. I pray the put the case therof weertayne with suche wordes as be

The. rri.chapttre.

foxli.

nat condicionell that I may the better perceque what thou meanelt therm.

The.zir. question of the student

C Student. A man maketh a feffement by vede indented and by the fame bede it is agreed that the feffe fall paye to B. B. and to his berres a certapne rente yerely at certayhe bates and that if he paye nat the rent then it is agreed that H. W. or his berres fall entre in to the lande , and after the fette pareth nat the rent, then the ques ftion is mho ough in cofcience to have this land and rente. T Doctour. De me argue mhat cone fcience myll let ve knowe firft mhat the law myl therin. O Student. I thynke that by the lame nerther the feffour ne get the faid. A. B. Chall ne uer entre in to the lande in tots cafe for nat paye ment of the rent for there is no rentre ithis cafe gruen to the feffoure-for nat payment of the rent as there to in the cafe nerte before and the entre that is gruen to the fayd 3. B. for nat payment therof is porde i the lam bycaufe he is eftrauge to the bede as it appereth in the nexte chapitre before. And therfore me thrnketlethat the grete telt boute in this case is to se to mhat vie this feffement Balbe taken. [Doctoure. There ap. reih in this cafe as thou haft put it no confidera cion ne recompence gruen to the feifoure mbere pon any vie may be our jued and if the case be fo

The exi. chapitre.

en bede and that the feffoure beclared neuer bis mynde thermito mat yfe Wal it then be taken. Student, I thynke it falbe taken to be to the efe of the feffe as lenge as he pareth the renter for there is no reason why the reffe floide te bus fred much parment of the rent haurng nothing for his labour ne it may nat couch rentig be take that the entent of the tellour mas fo except he ex breffed it/and then it must be taken that be inten ded to recompense the feffe for the bufynes that be shold baue in the parment ouer, 2 by the wor des folowing his intent appereth tobe fo as me thruketh toz if the fent mere nat parce he mold that 3.16. Molde entre, and fo it femeth be enten bed nat to have any vie him felf and thus as me femeth this cafe Chall varie fro the comon cafe of vies / that is to fare / if a man feafed or lande make a feffement therof, and it appereth nat to what vie the feffement was made then it Calte taken to be to the vie of the fetto? except the con trary can be Jued by fome bargayn or ether like or that his intent at the tyme of the lyuerey of feafon mas expressed that it Molde beto the vie of the feffe or of some other and then it Wall go according to his entent but in this cafe me thin keth it Walbetaken that his intent was that it Molde first be to the vse of the fette for the cause before reherfed excepte the contrary can be pros ued and so the knowlege of the entent of the fefs foure to the grettest certernire for knowlege of the pfe in this cafe as me femeth, but when the

feffoure goeth ferther and farth that if the rente be narpayde that then the faid A.B. Moid entre in to the lande, then it appereth that his intente was that the rente Molde celle and that A. B. holde entre in to the landerand though he may nat by those wordes entre in to the lande after the rules of the law and to have the tree holder pet those wordes seme to be sufficient to proue that the entent of the feffour was that he holde haue the pfe of the lande for fith be had the rent to his owne vie and nat to the vie of the feifoure for femerh he shal haue the vie of the lade that is affrened to bun for nat payment of the rente. Doctour. But 3 am sommhat in boute whee ther he had the rent to his owne ple for the ens tent of the festour myght be that he sholde pape the rent for him to some other or some other vie myght be appornted therof by the feffo? . T Stu dent Iffuch an enter can be pued the that intent must be observed but we be in the case to wet to mhat vie it shalbe take if the entent of the feffor can nat be proued/z then me thynketh it can nat be otherwise take butthat it shalbe to the vie of him to whom it hold be parderfor though it be called a rent ret it is no rent in the lawerne in the lame he hal neuer haue remedie for it though it were affened to him and to his herres without condicion neyther by Diffreffe by Bfffe bp maytte of annutte noz otherwyle , but he Walbe biguen to fue in the Chauncerte for his remedie

5.4.

The.rri.chapitre .

and then when he fueth in the Chauncerte be must furmyt that he ought to haue it by con cie ence and that be can baue no remedie for it in the lame. And then frth be bath no remedie to come to it but by way of confcience it femeth it fhalbe take that when he hath recouered it that be ought to have it in confcience and that to his owne vie without the contrarie can be proved and if the contrarie can be proued and that the intent of the feffour mas that he folde bifpofe it for him as he folde appornte then bath be the rente in vie to another vierand fo one vie folde be bependinge voon another vie whiche is fels bome fene and fall nat be indented tri it be pros ued and fo frth no fuch matter is here expressed me thriketh the rent fall be taken to be to the pfe of him that it is parde to and that the lande in likewife that is appoputed to him for nat pay ment of the faid rent fhalbe alfo to bis vie bom thenkest thou well coscience therin. 6 Boctour. 3 thrinke that as thou takeft it confci nce i this cafe the lame be all one for the lawe fercheth the fame thringe in this case to knowe the vie that conscience both that is to say the intent of the feffour and therfore I wold moue the ferther in one thring & Student what is that. Woce tour. E hat frth the intent of the feffoure Dalbe fo moche regarded in this cafe mby it ought nat alfo to be as moche regarded in the cafe that is in the lafte chapitre nette before this where the wordes be condicionell and grue the feffoure a feifoure maye in that case reenter for the condiction broken, that yet after his rentre he shall
be scased of the lande after his entre to the vse of
him to whom the land was assigned by the said
indenture for lacke of payment of the rente, by
cause the intente of the sessour shall eaken to be
so in that case as well as in this. And I pray the
let me know thy mynde what diversitie thou put
test bytwene them. (Student. Thou drywest me
now to anarow diversitie, but yet I wyl answere
the therin as well as I can. (Soctour. But
first or thou shewe me that diversitie, I pray the
shewe me howe yes began and why so moche
lande hath ben put in vse in this reasme as hath
ben. (Student, I wyll with good wyll.

and by what lawe the cause why so moche lande is put to pse.

The rif. chapter.

Student. Ales were reserved by a secondar of the lawe of reason in this maner i when the generall custome of propertie wherby every man knewe his owne good from his nergobours was broughe i amonge the people It followed of reason that suche landes and goodes as a man had cought nat to be taken fro him but by his a sent or by ordre of a lave cand then sith it is so that every man that hath lades

The.rry.chapitre

bath therby two thringes in him that is to fare! the possession of the lande whiche after the law of Englande to called the franke tenement or the frebolders the other is auctornie to take therby the pfires of the lade wherfore it foloweth that be that bath lande rentendeth to grue onely the poffeffion z free holde therof to another, and to kepe the profites to him felfe ought in reafs and conscience to have the profites fernathere is no lame made to probibit but that in conference fus che rescruacion mar be made. And so when a ma maketh a feffement to another z entendeth that be him felfe fhal take the profites then that feffe as faid feafed to bis wfe that fo enfetfed him that is to far to the viethat be shall traue the posses fion a frebolde therof as ithe lam to that intent that the felfour fral take the profites and under this maner as I suppose ples of lade first began. Toctoure. It femeth that the referupage of fuche viets probibit by the lame for if a man make a feffement and referue the profites or any parte of the profited as the greffe mode or fuche other that referuacion is voyde in the lame and me throketh it is all one that the lawingeth fire che a thringe if it be some to be worder and that the lawe probibiteth that that thenge fiall nat be bone & Student. Trouth it is that suche rea fernacion is porde in the lawe as thou farft and that is by reaso of a marime in the law that wile leth that suche refervacion of parte of the same thringe halbe juged porde in the lame but yet

the lame oothe nat prohibiteno fuche referuas cion shalbe made out it it be made it jugeth of what effecte it halbe that is to fave that it hale be poyderand fo he that maketh fuche referuas cion o fendeth no la me therby me bieketh no law therby a therfore the refernacion in confcience is good but if it were phibite by itatute that no ma Molde make fuchereferuacion ine that no feffes ment of truite folde be made but that all feffe mentes sholde be to the vie of him to phom pos ffeffion of the lande is gruen , then the referuas cion of fache vie agaynite the ftatute sholde be voyde bycaufe it were agapufte the lawer and yet fuche a ftatute folde nat be a ftatute agaynft reason bycause suche vies mere firste grounded and referued by the lame of reason , but it sholde preuent the la ve of refon and fholde put amare the confideracion wherupon the lame of reas fon was grounded before the fracute made. Bid thenne to the other question, that is to far, why foo moche lande hathe ben putte in vie it wrll be somewhat longe and peraduenture to forme man very tedious to sheme all the causes perticularly but the perpeause why the pie rep mayneth to the feffenatouth ftandrng his owne felfemente or fone and sometyme nat with tans drage a recouerye agayafte him is all opon one consideration after the cause rentent of the grft frie or recouerpe as is aforefaid. @ Doctour. Though reason may reserve that woon a festemt

The.rxii.chapitre.

a vie may be referued to the feffour by the intent of the fetfoure agaynft the forme of his gyfte as thou halt faid beforeiret I meruarle how fuche an vie may be referued agaynit a frue that is one of the lyghtelt recordes that is in the lawe , and is take in the lame of fo bygh effect that it Wold make an ende of all fryffes ot agarnite a reco. uerre that is orderned in the lame for them that be mronged to recouer their right by | and me thrnketh that grete incouenvence and hurt may folome when fuche recordes may fo lyghtly be a voyded by a fecrete intente or vie of the parties and by a nude and bare avermet a mater in sede and specially sith suche a matter in bede may be aledged that is nat true wherby mare rffe grete Stryfe bytmene the parties and grete confusion ? and vicertarnire in the lame but neuertheleffe fith our entente is nat at this tyme to treate of that matter & praye the touche fortely fome of the caufes why there hath be fo many perfones put i estate of landes to the vic of other as there bath ben for as 3 bere far fewe men be fole icae fed of their owne landes. (Student. Lhere hath ben many caufes therof of the which fome be put away by owers fratutes and fome remaye ne pet / mberfoze thou falte vnderftande that fome have put their lande in feffement fecretelve to the entente that they that have right to the lande foldenat knowe against whome to bring their accion and that is moche what remedied by bivere flatutes that grue accions against per

uours or takers of the profites. And fome tyme fuche feffementes of truft haue ben made to pave mayntenaunce and berrng of their feffes, which peraduenture mere grete lordes or rulers in the countre/and therfore to put away fuche marnte nauce treble bamages be grue by ftatute againft them that make fuche feffementes for magntes naunce and fomtyme ther were made to the vie of Dottmarn which myght then be made with out forfetture. But that to put awaye by the ftas tute of Ric. the feconde. And fomtyme thei were made to befraude the lordes of wardes reletes harrottes and of the landes of their vyllerness but those porntes be put aware by byuers stas tutes made in the tyme of kinge benry the. vil. Somtyme thet were made to auoyde execucions ppon fratutes fraple fratute marchaunt and rea cognyfaunce and remedie is proupded for that that a man fall have erecucion of all fuche lane des as any perfon is feafed of the vie of him that is fo bounde at the tyme of execucion fued in the str. rere of kynge Wenry the.vif. And ret remayn feffemetes fynes land recoveries mi vie for many other caufes in maner as many as there ord bee fore the fard effatures and one caufe why thei be yet pled is to put away tenauncre by the curtely triles of bomer. Another caufe is that landes in vie Challnat be put in execucion vpon a ftatute Staple Statute marchaunt noz recognisaunce but suche as be in the handes of the recognisoure tyme of the execucion fued. And fomty me landes

The rui chapitre.

be putin ple that they holde nat be put in execu cion voon a writte of Extendi facias ad valencia And so he pine suche vses be made that he to whose vie. re. may oeclare his well theron and fonteme for fuertye of owers coversuntes in ins behtures of marrage and other bargapaes. And thefe imo laft articles be the most catef and payn eipall causes who fo moche lande is put in pse. Alfo landes in vie beno affeo nertheria forme bone noz in an'a ccion of Det agaynite the bepres ne thei fhalnatbe put in execucion by an Elegit fued ppon a recoucrye as some save and these be the verie chyef causes as I no prememble why fo moche lande frandeth in vie as there pother and all the faid ples be referred by the entent of the parties viiderstande oz agreed byemene thes and that many tymes pirectly agayof the moto bes of the feffement frne/or recouerpe and that is done by the lame of reason as is aforesaid. Doctoure Dave nat an vie be ally sned to a fraunger as well as to be referred to the felfour tfebefeifour fo appoint it pon bis feitement. TStudent. yes as well/and in likewise to the feife and that vpon a bare gyft mithout aur bar garneor recompence if the feffoure fo mpll. Toctour. whattfuo feffement be made but that a man graunte to bis feffe that from theus forth be shall stande scaled to his owne vieris nattheyfechainged though there be no recom pence. [Student. I thrake yes for there mas an ple in Ele before the grft phiche be may as

lawfully grue away as he myght the lande if be had it in poffeffron. A Doctour. And what if a man bernge feafed of lande , graunte to another of his meremocion without bargarne or recoms pece that he fro thens forth Malbe feafed to the vie of the otherne nat that grafit good. IT Stus bent. I suppose that it is nat good for as I take the law that graut is vorde for I thynke that a man can nat comence an vie but by lyuerer of fea fon or vpon a bargern or fome other recopence. Doctour. I holde me cotented with that thou halt faid in this chapitre for this trime a Toray the there me what owerfitte thou outteft bre emene those two cases that thou halte before res herfed in the xx.chapitre a in the xxi chapitre of this plent boke, Student. I myl with good myl.

The druerlitte betwene two cases here after folowenge wherof one is put in the rechapitre and the other in the rn. chapitre of this present booke.

The riff chapitre.

Studet. The first case of the said two cases is this. I man maketh a fesse met by bede indented you a codicion that the fesse shall pay a certain rent perely to a strauger 10.7 if he pay it nat that it shall lawefull to the straunger to entre in to the lande. In this case I sayde before in the. re. chapitre that the straunger myghte nat entre bycause he mas nat pryuge to the condycrou.

The.rrig.chapitre.

But I said that in that case the sessonre myght la psuty reaser by the first wordes of the indensitive bytause the simplye a condition in the same and that the other wordes sthat is to sape sthat the that the other wordes sthat is to sape sthat the that make and coscience. And therfore I say dierther that whe the sesson had rentred that he was seased of the lande to his owne pse and natto the vie of the straugers though his intent at the making of the sesson were that the strauger at his erre should have had the lande to his owne vse if he mysht have entred by the same. And the cause why I sthrike that the sesson his owne vse if he mysht have entred by the same. And the cause why I thrike that the sesson his owne vse I shall she we the afterwards.

The feconde cafe is this a ma maketh a feife ment in fee and it is agreed opon the feffemente that the feife (ball par a perely rente to a ftrauns geriand if he pay it nat : that theu the ftraunger (hallentre in to the lande. In this cafe I faid as it appereth in the faid. ert. chapitre / that if the feffe par de nat the rent that the itraunger fold haue the ple of the lande : thoughe he maye nat by the rules of the lande entre i to the landerand the buerfine brewene the cafes me thynaeth to be this. In the first cafe it appereth as I baue faid before that the fe four myght lawfully rens ter by the lame for nat payment of the rent, and then when be entred according hebrithatentre suoyded the firste lyuerey of feafon rin fo moche that after the renter be mas fealed of the lande

of like effate as be was befoze the feffement. End fo remarneth nothing wherupo the ftraus ger myghte grounde bis vie but onely the bare graunte or intent of the feffour when he gaue the lande to the feffe voon condicion that be foide paye the rente to the ftraunger, and if nat/that it folde be lamfull to the ftraunger , to entre , for the fellement is auoyded by the rentre of the fefs four as 3 baue faid before and as 3 faid in the laft chapitre as 3 suppose a nude or bare graunt of him that is feafed of lande is nat fufficient to begrn an vie voon. I Doctour. A bare graute may chaunge an pfc as ti ou thy felfe agredelt m the laft chapitre, m' y the may nat an vie as mel begru voo a bare graft. f Studet. when an vie to in Effe:be that bath the ple may of his meres mocion grue it away if he myll mithout recome pence as he mrabt the lande if he had it in pole feffron but 3 toke it for a groude that be can nat fo begin an vie mithout alyuerey of feafon oz voon a recompence , and that there is fuche a grounde in the lame that it mare nat fo begrn it appereth thus, it hath ben almay holde for law that if a man make a bede of feffement to anos ther and belguer the bede to bim as his beder that in that cafe be to whom the vede is belyue. red bath no trile ne medlynge with the lande as fore lyuerey of feafon be made to him but onely that he may entre and occupie the lande at the myll of the feffoure and there is no boke farth shat the fettour i that cale is feafed therof before

lyuerey to the vie of the feffe. And in like rolle if & man make a bede of reffement or two acres of lande that lie in two Orzes intendringe to grue them to the teffe and maketh truerer of feafonin the one forte and nat in the other, in this cafe it is comonly holden in bookes that the oede is porde to that acre where no truerer is made ex cept it lye within the vyeu faue only that he may entre and occupre at myll as to a lorefard and there is no boke that fayth that the fene folde have the vie of the acresfor if an vie pailed ther by then were nat the vede poyde to all intentes. and retit appereth by the wordes of the bede that the feffour gave the landes to the feffe but for lacke of lyuerey of feafothe grft mas vorde and fo me thynketh it is here without lyuerey of feafon be made accordrige. But in the feconde cafe of the faid two cafes the feife mare nat rens tre for none payment of the rent , and for the first lynercy of feafon contynueth and frandeth in eta fecte and therupon the first ve mare well begyn in the ftraunger of the lande when the rente is nat payde vnto him accordinge to the firste as grement. And fo me thynketh that in the firfte cafe the vie is betermmed bycaute the lyuerey of feafon wherupon it commensed is betermyned and that in the feconde cafe the pfe of the lande taketh effecte in the ftrauger for nat payment of the rente by the Braunt made at the first lyuerey which ret contynueth in his effecte, and this me throketh is the divertitie bytwene the cafes.

Doctoure. Yet nath uhltandrige the reason that thou half made me thruketh that if a man feafed of landes make agrice theror or graunte by a nude prompfe without any inverer or recom pence to bim made that he Qualinat be feafed to his vie fo that that promite is therfore vorde i the law that ret it must holde and stade good m conference and by the lane of reason/loz one rus le of the lame of reason is , that me mare bo nos thringe against the trouth and 11th the trouth is that the coner of the grofide bath grafited that he Qall be feafed to the vie of the other , that graunte muft nedes flande in effecte oz eites there is no trouth in the grauto? I Sti dent. It is nat agarnst the trouth of the grauntour in this cafe, shoughe by that grounte he hadnat feated to the vie of the other ibut it proueth that he hath graunted , that the lame well nat marraunte him to grauntel wherfore his graunte is voyde. But if the grauntoure had gone let ther and faid that he wold also suffre the other to take the pro fites of the landes mubout let oz interrupcion/ or that he wolde make bim cftate in the lande m' en he fold be required: then I ihynke i those cafes he mere bounde in conscience by ibat rule ofthe lame of reason that thou hast remembred to perfourme them it he entended to be bouns den by bis promyle , for elles be Wolde goo as sarnfte his owne trouthe , and againfte his owne prompfe / but ret it Call make noo vie in that cafe mor he to phome the prompfe is made

The xxuif.chapitre.

Mall have no accion in the lawe voon that promite al though it be not performed for it is calsted in the lawe a nude or a naked promyle, and thus me thynketh that in the first case of the said two cases the gradie is now anoyded in the law by the rentre of the setto? and that the terfour is not bounden by his graunte neyther in lande nor conscience but that in the seconde he is bounde so that the yse passeth from him as I have said before. O worden for this tyme but I praye the short a nude contracte or a naked promyse in the lawes of Englande and where an accion maye lye therupon and where not shynketh therin.

Twhat is a nude contracte or a naked promyle after the lames of Ens glande whether any accion maye lyc therupon. The rring chapitre.

TStudent. first it is to be understande that costractes be grounded upon a custome of the resalme and by the lawe that is called Ais gencius and not directly by the lawe of reason, for when all thringes were in comon it neded not to have contractes, but after propertie was brought in their were right expedient to all people, so that a man myght have of his neighboure that he had

nat of his owne and that coulde nat be lawfully but by his grite by ware of lendinge concorder or by fome leafe bargayne or fale, and fuch bars gaynes and fales be called contractes and be made by the affente of parties voon a grement bytwene them of goodes or landes for money or for other recompance , but of money viuell for money pfuell is no contracte / alfo a concorde is properlye vpon an agrement bytmene the pars ties with bluers artitles therin fome ryfynge on the one parte and some on the other/as if John at Style lettteth a chabre to Menry Mert attis ferther agreed bytwene the that the faid ibenry Werte Mall go to borde with the faid Johan at Style and the faid Wenry Werte to paye for the chambre and bordynge a certeyne fome. zc.this is properly called a concorde but it is also a con tracte and a good accion lyeth vponit/ home be statts nat moche argued in the lame of England mbat ouerfitte is bytmene a cotracte/a coucorde a prompfe/a gpfte/a lone/or a pledge: a bargayn a covenaunt or fuche other/for the intent of the lame is to have the effecte of the matter argued and nat the termes / a nude contracte is where a man maketh a bargayn oz a fale of his goodes or landes without any recompence appoputed for it. As if I fare to another I felle the all my lande or all my goodes and nothinge is allyge ned that the other (hall grue or page for the that ts a nude contracte / and as I take ttat is vorde in the lame and conference, and a nude or anaked 5. L

The rrug. chapitre .

grue hi certarne money suche a vay or to buride him an house, or to bo him suche certarne service: and nothinge is assigned for the money for the buridinge, not for the service, there be called naked promptes by cause there is nothing assigned why thei sholde be made, and I thinke no action izeth in those cases thoughe thei be nat perfourmed. Biso is I prompte to another to kepe hi suche certarn goodes sausely to suche a tyme and after I resule to take the there izeth no action against me for it i but if I take them and after their be loste or empeyred throughe in pregly gent kepringe, there an accionizeth.

Doctoure. But what oppinion holde thei that be lerned in the lawe of Englande in suche promyses that be called naked or nude promyses whether so thei holde that thei that make the promyse be bounde in conscience to perfours me their promyse thoughe thei can nat be comspelled thereo by the lawe or nat. Etudent. The bokes of the lawe of Englande treate lystyll thereof for it is lefte to the peterminacion of boctoures, and therfore B praye the shewe me sommat of thy mynde therm, and then I shall shewe the therm sommhat of the myndes of openers that be lerned in the lawe of the realme.

after the sayenge of voctoures it wolde aske a longe tyme and therfore I will touche it breyfor to stue the occasion to vestie to here more

therm berafter. firfte thou Galte vnderftande that there is a pmyle that is called an Aduome and that is a prompfe made to god, who fo ever make fuche auome spon a beliberate infinde ens tendpage to perfourme it is bounde in confers ence to so it though it be onely made in the hert without pronounfrige of mordes , and of other promyfes made to man vpon a certagne compe deracion:if the promyfe be nat agaynite the law As if A. pmife to grue B. zz. li. bycaufe be bath made him fuche a house or hath tente bim suche a thynge or fuche other like B thinke him bous ben to kepe his promife. But if the promife be fo naked that there is no maner of confideracion why it Golde be made i then I thynke him nat bouden to per fourme tt/ foz it is to suppose that there was some erroure in the makinge of the promife but if suche a promite be made to a ve muerfite to a cytie to the chirche , to the clergie or to the pore men of fuche a place, and to the bonoure of god or fuche other caufe lyke , as toz mayntenauce of lernyng/of the comon welth of the ferurce of god or in relyefe of pouertie or suche other that he is bounden in conscience to performe it though there be no confideracion of worldely profite that the grauntoure hathe had or entendeth to have for it and in al fuch promp fes it muft be vinderstande that he that made the promife entendeth to be bounde by his pmife toz elles comonly after al boctours be is nat bouder oneles he mere bounde to it before his prompfes 5. H.

The rrug. chapitre.

Beifa man prompfe to grue his father a gowne that bath nede of it to kepe him fro cold, and ret thrnketh nat to grue tr him i neueribeies be is boud to grue it for he mas bouden therto before Bifo after fome boctours a man mar be excufed of fuche a pm; fe in confetence by cafualtye that cometh after the pmyfe if it be fo that it be bad knowen of that calualtre at the makinge of the prompfe be molde nat haue made it. End alfo fuche promyfes if thei Mall bynde thei mufte be bonefter lamfull and pollyble , and elles ther are nat to be holden in confcience thoughe there be a caufe. zc. And if the promyfe be good and with a caufe thoughe no mordely profite fall growe therby to bi that maketh the promple but onely a fpirituali profite as in the cafe before reberfed of a promyfe made to a vniuerfite , to a cyte , to the chyrche or fuche other and with a caufe, as to the honoure of god or fuche other , there it is most comonly holden that an accion your those promyfes lyeth in the lame canon. (Student. phether' bofte thou meane in fuche promyfes made to a vniuerfitte , to a cytye or fuche other as thou haft reherfed befozerand with a caufe as to the bonour of god or fuche other. That that partie falbe bounde by his promife if he intens ded nat to be bounden therby re or nave.

Doctour. I thenke nay no moze then vpon prompfes made vato comon persons. Estudet And then me thenketh clerely that no accion calle against him vpon such prompses for it is see

crete in his owne conscience whether he intens bed to be bounde or nave , and of the entente ins warde in the herte/mans lawe can nat tuge / but ofourward thrnges, and that is one of the caus feamhy the lawe of god is necffarie, that is to fage , to tuge inmarde thringes as it appereth in our first oraloge the thirde chapitre, and if an ac cion holde le in that cafe in the lame canon the holde the law canon tuge vpon the inwarde ine tent of the berte whiche can nat be as me femeth And therfore after owers that be lerned in the lames of the realme al promifes halbe taken in this maner , that is to fape , if he to whome the prompfe is made have a charge by reason of the promyfe whiche he hath also perfourmed, then in that cafe he Mall haue an accion, for that thyng that was prompfed though he that made the promple haue no morldely profite by it. As if a man fage to another hele fuche a pooze man ofhis difeafe or make fuche an hyshe wave and I hall grue the thus moche and he bothe it 1 3 thynke an accion lyeth at the comon lawe. And more over thoughe the thringe that he fall oo be all fpirituall yet if he perfourme it 3 thrike an accion lyeth at the comon lame. Bsif a man fay to another falte for me all the next lente and I hall grue the. zc. And he perfourmeth it 3 thynke an accion lyeth at the comon lame. And in lyke myfe if a man fage to another mary my boughter and I wyll grue the rr.li. Upon this promife an accion leth if he mary his boughter

and in this cafe be can nat bischarge the promife thoughe he thought nat to be bounden therby for it is a good contract and he may have iQuid of deproque. That is to fare the preferment of his boughter for his money but in those promifes made to an oniverfite or fuche other as thou haft remembred before with fuch caufes as thou haft themed that is to fare to the honoure of god of to the encrease of lernynge or suche other phere the partie to whome the promife was made is bounde to no newe charge by reason of the pros mife made to bim but be was boude before there ther thrake that no accion lyeth agarnite bim thoughe be perfourmenat bis promile, for it is no contracte , and fo bis owne confcience mufte re his tuge whether he intended to be bounde by bis promife or nat. And if be intended it nat ibe he offended by his distimulacion onely ibut if he intended to be boude then if he perfourme it nat entrouth is in him and be proueth himfelfe to be alper whiche is probibited as well by the lawe of god as by the law of reason, and ferthermoze many of them that be lerned in the lame of Ens glande holde that a man is as moche bounde in conference by a promife made to a comon perfon if be intende to be bounde by bis promife as be is in the other cafes that thou bafte remembred of a promise made to the chriche or to the clere grevoz fuche other , for thet fare that as moche untrouth is in the brekynge of the one as of the

other and theif ay that the vntrouth is more to be pondered then the person to whom the pros mifes be made. [Doctour. But what hold thet if the promife be made for athringe palte , as 3 promife to the rl. fi. for that thou hafte buylded me fuche a house/lyeth an accion there. I Stus dent. Thet suppose nay but be fal be bounde in conscience to perfourme it after bis intent as is before faid. T Docioure. And if a man pros mile to grue another. zl. li. in recompence for fus che a trefpas that he hath vone hi lyeth an ace to for that fuche promifes be no perfite contrac tes for a contracte is properly where a man for his money (ball have by affent of the other pile certarne goodes or fome other pfite at the tyme of the contracte or after/but if the thyng be pro mifed for a caufe that is pafte by may of recome pence then it is rather a cocorde then a contract but then the law is that voon fuche accorde the thringe that is promifed in recompence muste be payde or belguered in handerfcz vpon an accord there leth no accion. Toctoure. But in the case of trespas whether holde thet that be be bounde by his promise though he inteded nat to be boude therby. [Studet. Theithynke nay no more then i the other cafes that be put before Doctour. In the other cafes he mas nat boud to that be promifed but only by his promiferbut in this case of trespas he was bounde in conscie ence before the promife to make recompence for

The xxitif chapitre

the trespasiz therfore it semeth that he is boude in conscience to kepe bis promise thoughe he in sended nat to be bounden therby. (Student. Thoughe he mere bounde before the promife to make recompence for his trefpas yet he was nat bounden to no some incertagne but by his pros myferand bycaufe that fome may be to moche or to lytel and nat egall to the trespass and that the partie to whom the trespas was sone natwithstandinge the promplets at lybertie to take his accion of trefpas if he wyll therfore thei holde that he may be his owne tuge in conscience whe ther he entended to be bounde by his promife or nat as he may i other cafes but if it were of a bet then thet holde that he is bounden to performe his promyfe in conscience. Tooctour. what of in the case of trespas he afferme his prompfe with an othe. [Student. Then thei holde that he is bounde to perfourme it for fauyng his othe though he intended nat to be bounde but if he in tended to be boude by his prompfe then thei fay that an othe nedeth nat but to enforce the pros myferfor thet fay be breketh the lame of reafon. whiche is that we may bo nothinge against the trouth as well whehe breketh his promife that he thought in his owne herte to be bounde by as he both whe he breketh his othe though the offence be nat fo grete by reason of the persury, more over to that thou farest that voon such pro myfes as thou haft reherfed before ball lye an accion after the lame canon veryly as to that in

this realme there can none action lye theron in the spiritual courter if the promyse be of a tems porall thyinge for a prohibition or a Premunire facias sholde lye in that case. Doctour. That is merualle sith there can no action lye theron in the kynges courte as thou sayest thy selfe.

Estudent. That maketh no matter for though there lye no accion in the kringes courte agaynft executours voon a symple contracte ret if he be fued in that cafe for the bette in the fpirituall courte a probibicion lyeth. And in lyke myfe if a man mage bis lame vntruelye in an accion of bet voon a contracte in the kynges court yet be fhat nat be fued for that persurge i the fpiritual court and ret no remedie lyeth for that persurre in the kynges court/for the probibicion lyeth nat only where a man is fued in the spirituall courte of fuche thynges as the partie mar haue his remes by of in the kynges courte but also where the for ritual court holdeth plee in fuch cafe where thei by thekynges prerog atpue and by the auncient custome of the realme ought none to bolde.

Doctour. I wyll take aduplement voon thyne oppinions in this mater tyll a nother tyme. And I pray the nowe procede to another question.

The.rr.question of the student. The.rry.chapitre.

Estudent. A man hath two fones i one borne before espouseles and the other after espouseles

The. xxv. chapitre.

The father by his myll bequetheth to his fone and herreall his goodes impiche of thefe two fones hal have the goodes i confetence. [Doc tour. Ba B faid in our first bialoge the laste chas pitrethe boute of this cafe bependeth nat in the knowpinge what conscience well in the case but rather in knowrnge whiche of the fones Walbe suged here er that is to fave, whether be shalbe taken for herre that is berre by thefortival lam or be that is herre by the lawe of the realmer or elles that it halbe juged for him that the father toke for berre T Student. As to that poynt ade mitte the fathers myndenat to be knowentoz ela that his mynde mas that he Molde be taken foz berze that sholde be suged for herze by that lam that in this case it ought to be juged br. And the 3 pear the flew me thy mynde therisfor though the queltion be nat birectely bependynge voon that popul to fe mb at conscience myl in this case ret it is right expedient for the wel orderinge of conscience that it be knomen after what lameit Malbe tuged , for if it ought to be tuged after the temporall lame who folde be berze, thenne it mere agarnite conference if the tuges in the fpis ruuallame Molde tuge hi for bepre that is berre by the forrituall lame, and I thynke thet folde be bounden to reftitucion therby, and therfore 3 praye the Gewe me thyne oppinion after what lament falbe tuged . Tooctoure. Wethyne keth that in this cafe it Dall be iuged after the lame of the churcher for it appereth that the bye

queft is of goodes and therfore if any fute fhall be taken voon the execucion of the myll for that bequeft it muft be taken in the fpirituall courter and when it is bepending in the fpirituall court me thriketh it mufte be inged after the fpiritual lare for of the temporal law thet baue no know lege not thet are nat bounden to knowe it as me thruketh and moze ftronger nat to tuge after it. But if the bequeft had ben of a chatell reall as of a leafe for terme of reres or of a warde or fus the other then the matter holde haue come in bebate in the kringes courte , and then I thrake the tuges there folde tuge after the lawe of the realmert that is that the ronger broder is beyze and fo me thrnketh the buerfitte ofthe courtes hall make the owerfitte of the tugement.

Student. Of that myght folow a grete the convenyence as me semeth, for it myght be that in suche case bothe chatels reale and chatels per sonel myght be in the wyll. And then after thyne oppinion the one sone sholde have the chatels personell, and the other sone the chatels reale; and it can not be conveniently taken as me thyne keth but that the saders wyll was that the one sholde have all and not to be sevyded. Therfore me thynketh that he shalle suged for herse that is herse by the comon lawe. And that the tuges sortiual i this case be boude to take notice what the comon law is for sith the thynges that be in variounce be teporal that is to saye the goodes of the sather, it is reason that the righte of

The rrv. chapitre.

of the realme. Toctour. How may that be for the tuges spiritual knowe not the lawe of the resalme ne there an not knowe it as to the moost preof them, for moche parte of the lawe is in suche speche that sewe men have knowlege of it, and there is no meanes ne samiliaritie of studye by ewene them that lerne the sayd lawes, for their be lerned in severall places and after owers mayes and after owers maners of techynges and in oyouers speches. And comply the one of them have none of the bokes of the other, and to by de the spirituall suges to grue sugement after that lawe that they knowe not, ne that their cannot come to the knowlege of it semeth not reasonable.

TStudent. Thei must bo therm as the kynges tuges muste bo when any matter cometh before them that ought to be suged after the spirituals la verwher of sout dyners cases in our first diagonal loge the visichapitre, that is to saye their muste either take knowlege of it by their owne studye or elles their must enquire of them that be lerned in the lawe of the chirche what the lawe is and in the wise must ende be lothe to aske any such question in such case or to confesse that thei are bounde to grue their sugement after the tempos rall lawe and surely they may elightly offende their conscience. Toctour. I suppose that some be of oppinion that their are not bounde to knowe the lawe of the realine, and yerslye to

iny remembraunce I haue nat herde that mges of the spiritual lawe are bounde to knowe the lame of the regime . I Student . And y fups pofe that ther are nat onely bounden to knowe the lame of the realme or to oo that in them is to knowe it when the knowlege of it openeth the ryght of the matter that bep endeth before them but that thet be also bounden to knowe where and in what cafe thet ought to tuge after it / loz in fuche cafes thet mufte take the kringes lame as the lame spirituall to that point and are bou den in conscience to folome it as it mare appere by divers cafes wherof one is this. 2 wo toynt' tenauntes be of goodes and the one of them by his lafte myll byquethrih all his parte to a ftraff ger and maketh the other toynt tenaunt his exes cutoure and byeth if he to whome the by queft is made fue the other tornt tenaut vpo the legacie as executour. ac. ypon this mater fewed the wa ges of the fpirituall lame are bounde to tuge the wyll to be voyde bycaufe it is voyde by the lam of the realme , wherby the toynt tenaunt bathe ryght to the hole goodes by the tytle of the fure uruoure, and is inged to haue the goodes as by the first gyft whiche is before the tile of the n ri and mufte therfore haue preferment as the els der tytle. And if the inges of the fpirituall court tuge other mife thet are bounden in confcience to reftstucion. End by like reason the executoure of a ma that is outlamed the tyme of his beth may Difcharge them felfe of the perfourmynge ofles

The xxv.chapitre.

Bactes bycaufe thei be chargeable to the kynger and per there is no fuche lam of ourlagarie in the Spirituali lame. (Doctour. By occasion of that thou halte faid betore I wolde afke of the this queition if a person of a chirche altene a porcion of orfines accordinge as the forrituall lam hath ordemed is nat that altenacion fufficient though u have nat the folempnities of the teporal lame. Witudent. 3 am in boute therin if the porcion be vuder the fourth parte of the value of the chirche but if it to the value of the fourth parts of the chirche or aboue, it is nat fufficient. And therfore was the writte of Right of orfines ors beined and if in a witt e of Right of orfines it be tuged in the kynges courte for the patrone of the fuccessoure of him that sigened bycause the altenacton was nat made accordinge to the comon lawerthen the tiges of the fpiritual lame are bounden to grue their tugement accordinge to the tugemente gruen in the kringes courte. And in likemife if a perfon of a chirche agree to take a pencion for the tythe of a mylle if the pen cion be to the fourth parte of the value of the chirche oz aboue / then it mufte be altened after the folementties of the tynges lawes as landes and tenementes muste or elles the patron of the fuccessoure of him that altened maye biginge a writte of Right of orfines and recouer in the kringes courte / and thenne the tuges of the fpis rituall courte are bounden to grue Jugemente in the foirituall courte accordingely as is afore

faid. Doctoure. I have herde fage that a mitte of Bight of byfmes is gruen by the ftas tute of mestmynitre the seconde and that speketh onely of primes anat of penfione. (Siudent. where a perfon of a chirche is u zengefully Des forced of his brimes and is let br an Inaicauts to aike his orimes in the fourtuall courte then his patron mare baue a mitte of 2.16ht of orfe mes by the flatute that thou fpekeft or toz there lay none at the comon lame for the persone had there good right though he were let by the gus bicquit to fue for bis right. But when the perfon had no remedie at the fpiritual lame there a will of Bight of bilmes lay for the patron by the cos mon lame as well of penfions as of brines, and fome fape that in fuche cafe it laye of leffe thenne the fourth parte by the comon lame but that 3 passeouer. And the reason why it lave at the comon lame ir the orfmes or penfions mere abos ue the fourth parte. zc. was this by the fpirts tuail lame the altenacion of the perfone with the affent of the byffhoppe and of the chapure thall barre the fuccessoure mithout affente of the pas trone, and loo the patron mpght leefe his pas tronage and be nat affenignge therto , for his Encumbent myghte haue no remedie but in the Spirituall course and there he was barred wher fore the patrone in that cafe fall baue bis res medie by the comon lawe where the affente of the ordinarie and chapure mubout the patrone Mall nat ferue as to faid before.

But mbere the Encabent had good right by the

The .xxv.chapure.

fpiritual lame there lare no remedie for the pas tron by the comon lam thoughethe Encumbent mere let by an Indicautt, and tor that cause mas the faide statute made , and it lyeth as well by the equite for offrynges and pensions as for oplmes. The ferther I wold thynke that where the ipirituali courte may holde plee of a tempos rall thringe that thei must uige after the tempos rall lame, and that pgnozaunce Mall nat excuse them in that cafe for by takynge their office thei haue bounde them felte to haue knowlege of as moche as belongeth to their office as all uiges be foirituall and temporall. But if it were mars gument in this cafe whether the eldeft fone my ght be a preft bycaufe be is a bafterde in the tem porall lawe that halbe uged after the fpirituall lame for the matter is foirituall. @ Doctoure. pet natwithstandinge all the reasons that thou hafte made I can nat fe home the tuges of the spirituall lawe halbe compelled to take notyce of the temporali lawe fernge that the mooft pte of it is in the frenche tonge for it mere harde that every spiritual tuge Wolde be compelled to lerne that tonge but if the lame of the realme mere fet in suche ordre that thei that intended to Rudye the lame canon myght firste haue a syght of the lame of the realme as thet haue nome of the lame Cyuyl. And that fome bokes and treas evies mere made of cafes of confcience confers nynge those two lawes as there be nome concer nrnge the lame Crupil and the lame Canon it

were right expedient as me semeth/and then rea son myght serve the better that thei holde be co pelled to take notice of the lame of the realme as thei be now bounde in such countress as the lam wruyll is yied to take notice of that lame.

I Student. We thynketh that thrne oppinion is right good and reasonable but tyll suche an ordre be taken thet are bounden as I suppose to enquere of them that be lerned in the comon law what the lame is , and fo to grue their tugement according if thei wyl kepe them felfe fro offence of conference and for as moche as thou halt mel fatified my mynde in all thefe questions before. I praye the no we that I may fommhat fele thy mynde in omers artrcles that be made for the orderrnge of conscience voon the lame Canon and Lyuyl for me thynketh that there be omers conclusions put i biuers bokes as ithe fumes cal led Summa angelica , and Summa rofella , and owers other for the good ordre of conscience that be agarnfte the lame of the realmerand ras ther blynde conscience then to grue any lighte vinto it. @ Boctoure. I pray the theme me fome of those cases. I Studet. 3 myl mith good myl.

Twhether an abbot maye with conscience presente to an Advouson of a chirche that belongeth to the house without assente of the couent. The keys.

Chaptire

D. W

The ervi chapiere.

Moctoure. It appereth in the chapitre Eas noscitur de hus que riunt a prelatis: the whiche chapitre is recited in the summe called summa Angelica in the title abbas the xxvu article that he may not without any custome of any spirituals

printlege bo belpe therin.

4 Student. Lrouthe it is that there is fue che a Becretale but thet that be lerned in the law of Englande bolde that that vecretale byns beth nat i this realmerand this is the cause why ther bo holde that oppinion . Er the lame of the realme the hole offpolicion of the landes and goodes of the at ber to in the abbot onely for the tyme that be is abbot and nat in the couent , for theibe but as beed persones in the lame and therfore the abbot fhall fue and be fued onely wit bout the couent too bomage fealtre atturne make leafee and prefente to Eduoufons onely in his owne name , and thei fage ferther that this auctortie can nat be taken from bim but by the lame of the realme, and fo thet fare the mas kers of that becretale exceded their pon er wher fore ther fare it is nat to be holden in confcience no more then if a vecre mere made that a leafe for terme of yeres or at myll made by the abbos puthout the couent sholde be immediaily voyde and fo thei thynke that the abbot maye in this cafe prefente in his owne name mithout offence of conference bycaufe the faid Decretale holdeth nat in this realme. T Doctoure. But many be of oppinion that no man hath auctoritte to prefent

in right and confcience to any benefice with cure but the pope of he that hath his auctorite there in berinted fro the pope tor thet fayethat for as moche as the pope is the vicar generall vider god and hathe the charge of the foules of all people that be in the flocke of Chipftes chirche. Be is reason that fribe be can nat minifre to all ne so that is necessarie to all the people for their Toule helihe in his owne perione that he that allrine veputtes for his bischarge in that behalf and bycaufe patrones clayme to prefente to chir ches in this realme by their owneright withe out tytle veriuted fro the pope thet far that thet viurpe vpon the popes auctorite and therfore therconclude that thoughe the abbot have tre sle by the lame of the realme to prefente in this cafe i his ownename , that pet bycaufe that title is agapult the popes prerogative that that tytle ne yet the lame of the realme that maynterneth that tytle holdeth nat in confcience. And they fare also that it belongeth to the lame Canon to peterinine the righte of prefentemente of benes frees for it is a thringe fpirituall and belongeth to the formuall suryidection as the beptuacion from a benefice bothe. And fo thei fare the faid becre byndeth in confcience thoughe in the lawe of the realment bynde nat (Student. As to the firste consideracion g wolde ryghte well agre that if the patrons of chirches in this realme claymed to put Encumbentes in to fuche

chirches as Gold fall voyde of their patronage

The exvi. chapitre

without presentinge them to the bysthop of if the claimed that the byffhop fold admit fuche Encumbent as thet wolde prefente utthout any erammacion to be made of his habilitie in that beballe, that that claune mere agarufte reafon and conference tot the cause that thou hast reber fed but for as moche as the parrons in this realme claime no more bur to prefent their Encum te or the by Ifhop and then the by Ifhop to eras mynthe haviline of the Encumbent and if he frude him by the examinacion nat able to baue cure or foule , he then to refule him and the pas trone to prefem another that Walbe able, and if he be abierthen the by Thop to admit him inftis tate himia mouce bi, Bibrake that this clayme Cap:37 and their presentnientes therupon stande mith good reafon and cofcience and as to the feconde confideracion it is holden in the lan es of the realme that the right of prefentment to a'chirch is a temporall enheritaunce and Wall bescende by courie of enberitaunce fro begre to berie as landes and renementes fal and walbe taken as an affes as landes and tenementes fall, and for the triall of patronages be ordemed in the lame bivers accions for the that be mronged in that behalfe as wattes of Right of Eduouson Ally fes of Barein prefentment, Quare impedit i bis uers other which alway without tyme of inginde haue ten pleded in the kringes courtes as thrie ges parternrage to his crowne and rorall bige nite and therfore thet fage that in this cafe bis

lames ought to be obered in lame and confcience Doctour pfit come in variaunce whether he that is to prefered be able or netableiby who n Wall the habilitie be tried. TStudent. Pfine etdinarie benat par te to the acctom it thatbe tried by the ordinart and if he be partie it halbe tried by the metropolitane. I Boctoure when the lame is more reasonable in that poyat toen thought it had ben bur in the other point 3 wylltake aduisement in it tyll another tyme and praye the Bewe me thy mynde in this pointe if an abbot name his couent with him in his pies fentacion both that make the prefentació vorde in the lame of is the prefentacion good that nat withftandrige. EStudent. I thrinke nar but the namynge of them is voydere a thynge more then nede for if the abbot be biffurbed heimufte bignge his accion in his ownename without the couent. T Doctoure. Then I perceque well that teis nat probibite in the lame of Englande but that the abbot may name the couent in bis pres fentacion with him and alfo take their allente whom he Wall prefent if he mybandthe I hold it the fureft may that he to bor for in fo borng he Mall offende nertiger in lawe not confcience. Student. Zotake thaffent of the couet whom he hall prefent and to name them also in the pre fentacion knowfuge that he maye oo other wyfe bothe in lame and confcience if he myll is no ofs

fence. But if he take their affente or name then with him in the prefentació thrukyng that he is

The.rrvd .chapitre

To bounde to bo in lawe and conference fettynge a cofcience where none is and regardeth nat the lame of the realme that well buscharge his confer ence in this behalfe if be myll (fo that be prefent an able man as be may bo without their affent) there is an erroure and offence of confcience in the abbot. And in likewise if the abbot plent in bis owne name therfore the covent fayth that be offendeth confcience in that be obferueth nat the law of the church for that he taketh nat their affentithen thei offende in ingringe bun to offende that offendeth nat. And therfore the fure mar is in this cafe to tuge both the faid lawes of fuche effecte as thei bejand nat to fet an offence of cons ference by brekyng of the fard becre whiche ftan beth nat in effecte in this behalfe mithin this realme.

hurte whether mare he by his owne auctoute take them z kepe them tyl he be fatisfied for the burt The revis. chapute.

Doctoure. This question is made in the sume called summa Rosella in the title of restitucion, that is to saye, restitucio, rij. the. ix. article, and there it is answered that he maye not take them for to holde them as a pledge tril he be satisfied for the hurte, but that he may take the and kepe the tril he knowe who oweth them that he may

knowe against whom to have his remedier is nat the lame of the realme fo in likewife. C Student Ho verylye for by the law of the realme he that in that cafe hath the hurte may take the beeftes as a diftreffe and put them in pounde ouerte fo it be within the fame fbire, and there let them res marne tyll the owner wyll make him amendes for the trespas. @ Doctoure. what callest thou a pounde ouerte. [Student. A pounde ouerte is nat onely fuche poundes as be comonly made in tomaes and lordifyppes for to put i beeftes that be orftrepned but it is also euery place mbere thei may bei lawfully nat makynge the owner an offender for their bepng there and that it be alfo that the owner mare lawfully grue the beeftes mete and orrnke whyle thei be in polde. [Doc tour. And if thei oye in pounde for lacke of mete mhale teoperdie is it. C Student. if it be fuche & pounde ouerte as 3 speke of it is at the pergil of bim that oweth the beeftes: and yet be that had the burte fhalbe at lybertie to take his accion for the trefpas if he myll. And if it be nat a laws full pounde thenne it is at the pergll of him that pritragned and footis if he birue them out of the flyre and thei ove there. Doctoure. I putte cafe that he that oweth the beeftes of fer suffregent amendes and the other well nat take it but kepeth the beeftes ftell in pounde : may nat the owner take them out. (Student. Morfor he may nat be his owne juge. And if he so an accion lyeth agaynfte bim for brekynge of

The.zrvd.chapitre

the pounde but he must fue a Repleurn to haue his beeftes beliuered him out of poude: and ther vpon it halbe tried by.rg.me mhether the amen bes that was offered were fufficient or nat and therupon be that bath the burte Mall haue fuch amendes as the xij.men fhall affes. @ Doctour. of it be founde by the rif. men that the amendes were fufficient fal be that refufed to take it has ue no puny Mhemente for his refusell and for kes pringe of the beeftes in pounde after that trme. Student. I thynke no but only by the enquet vpon the Repleurn may in that cafe fet the gree ter baungers. T Boctoure. I put cafe that the beeftes after that refusel bre in pounde for lacke of meterat whofe teoperdie is it then. @ Studet At the reoperdr of him that oweth the beffes as at mas befoze for he is bounden at his perril by reason of that mronge that was bone at the bee grnnynge to fe that thei haue mete as longe as thei halbe in pounde, oneles the kringes writte come to belyuer them and be refffteth itifor afs ter that tyme it myll be at his reoperdie if thei bye for lacke of mete and the bamages halbere courred in an acció brought ypon the fratute for bifoberenge of the kynges wirtte.

M whether a gyfte made by one vnder the age of. xxv. yeres be good. The xxvij chapitre.

OCtoure. It appereth in fumma Angelica in the title bonatio pina the.vij.article that a man before the age of . rry. rere may net grue without it be mith the auctorite of his tutoure. ac. I Student. The age of infauntes to grue or felle their landes and goodes in the lawe of Ens gland is. rri. rere oz aboue fo that after that age the gyfte is good , and before that age it is nat good by whofe affent fo euer it be excepte it be for his mete and brynke or apparell or that be bott as executoure in performaunce of the myll of his teltatoure or in fome other lyke cafes that nedeth nat to be reberfed bere it that age mufte be obferued in this realme in lam and confcience and nat the fatd age of prv. (Doctoure. 3 put cafe it mere orderned by a becre of the chirche that if any man by his myll bequetheth goodes to another and wylleth that thei fhalbe belyues red to him at hisfull age that in that cafe, rry. rere Malbe taken for the full age Mall nat that becre be observed and stande good after the law of Englande. @ Student. 3 Suppose it Mall nat for though it belonge to the chirche to have the probate and the execucions of testamentes made of goodes and chatels excepte it be m certerne lord toppes and fergnources that have them by preferipcion/yet the chirch may nat as it femeth vetermine what halbe the lawfull age for any perfone to have the goodes for that belongeth to the kringe and bis lawes to betermine and therforest it were ordened by a statute of the

The revision apiere

realme that he sholdenat in suche cafe haue the goodes tyl he were of the age of. rry.yeres thas statute were good t to be observed as wel in the foirituall lame as in the lame of therealme, and if aftatute were good in that cafe theme a bes ere made therof is nat to be observed for the ors beryage of the age maye nat be vader two feues rall powers sand one propertye of every good lame of man is , that the maker excede nat his auctoritye and I thrike that the fpirituallius ges in that cafe ought to tuge the full age after the lame of the realme feynge that the mater of the age concerneth temporall goodes and I fup. pole ferther that as the kyinge by auctoritie of bis parliamente mare orderne that all melles Waibe porderand that the goodes of everyman Mall be bisposed in suche maner as by statute Molde be affigned / that more fronger he maye appopitte at mh stage fuche mplles as be made Malbe perfourmed. Coccoure. Thynkest thou then that the kynge mare take a pare the power of the ordinarie that he that nat calle ere cutours to accompte. @ Student. 3 am Toms mb it in boubte therin buttt femeth if it myghte beenacted by fratute that all mylles folde be popde as is aforefaid that then it myght be ens acted that no man fholde haue auctorite to calle none to accompte pon fuche mylles , but fuche as the fratute fall therto appointe , for he that may so the more mare so the leffernatmith tane drige 3 myll nothynge fpeke beterminately in

that pointe at this tyme ne I meane nat that if were good to make a ftamte that al mylles fold be vorde for Ithynke them righte expedients but myne entent is to proue that the comon law maye orderne the tyme of the full age as well in willes of temporall thinges as otherwifer and that no wyll fhalbe made , and if it maye fo bothen moche ftronger it belongeth to the krue ges lawes to interpretate willes concerninge temporall thringes as well when thet come to argument before his tuges as when thei come in argumente before fpirituall iuges and that thet ought nat to be tuged by feueral lames that is to fare by the fpirituall tuges in one maner and by the kynges tuges in another maner.

IT If a man be connycte of herefye before the ordinarte/whether bis goodes be forfett. The rrir chapitre.

Doctoure. It appereth in fumma Angeticle/that he that is an beretyke maye nat make executoures , for in the lawe his goodes be fore feit what is the lawe of the realme therin.

MStudent. 3f a man be conuycte of bereffe and abiure be hathe forfette no goodes but if be be conurcte of herefye and be belyuered too lay mens handes the hath he forfett all his good des that be bath at the time that he is belivered

The rrie chapitre.

to them thoughe be be nat put in execucion for the hereffe, but his landes he fall nat forfeite excepte be be bede for the herefre, and then be hall forfette them to the lordes of the feer as in case of felonge excepte thet be holden of the ore binarie for then the kynge hall have the forfels ture as it appereth by a fratute made the fecond pere of kringe Wenre the v. the. vil.chapitre. (Doctoure. De thynketh that as it belongeth onely to the chirche to betermine berefies, that for the belongeth to the chirche to betermine what punpfibement be (ball haue for bis bereffe ere ercept beth which thei may nat be tuges i but if the chirch becre that be that therfore forfeit his goodes me tornheib that thei be forfeit by that becre. TStudent. Har verily for thet be tempos rall and belongeth to the tugement of the kyns ges courte and I thynke the ordinarie mrabt haue fet no frne pou none empeched of herefye syll it was ordened by the Ratute of menry the fourth that he may fet a fyne in that cafe if he fe caufe: and then the kynge Wall have that fyne as in the faid statute apperetb.

the churche voydeth the patrons varie in the churche voydeth the patrons varie in their presentmetes, whether the byf shop that have libertie to present which of the Encums bentes that he wyl or nat.

Liberter Laputre.

OBctoure. This question is affed in summs cle and there it appereib by the better oppmion that he may pretent mbether cierke he mri bow be it the maker of the faid fome faith that by the rigour or the lame the brilbop in fuche cale map prefent a fraunger bycaufe the patrons agre nas and in the fame chapitre patronus the zv.article tt to fata that be muit be preferred that bath the mooft merites / and hath the mooft parte. And ttihe nombre be egall that then it is to confider the merites of the parrons and if thet beof tike mersterthen may the byilhop commaunde them to agre z to prefent agayne. And ifiber can nat agre iben the lybertie to prefent is gruen to the byffhop to take whiche he miland ii he maynat pet prefent mithout grete trouble then Gall the byffhop ordre the church i the beft maner be can and if be can nat ordre it. ihen fal he fufpede the chirche and take away the relikcono the rebuke of the patrons and if thei myll nat be to ordred then must he afke helpe of the temporalite, and in the ry article of the faid title patronus it is af ked wheiher it be expedient in such case that the more parte of the patrons agre haurige refpect to all the patrons or that it futice to have the more parte in comparison of the leffe parte as thus. Lhere be foure patrons imo prefentione clerkethe thirde prefenterh another: and the my another be that is prefeted by imo bath nat the more parte in comparison of all the patrone to:

The .xxx .chapure.

ther be egall but hath the more pte haurng refe fecte to the other prefentmentesiz to this ques fron itts answered that erther the prefentment to made of the that be of a colage a there is req. fptethe more parte haurage respect to all the co lage / oz elles euery man prefenteth for him felfe as comonly bo lar men that have the patronage of their patrimony/z then it fuffifeth to haue the moze parte in respect of the other pres, both nat the lame of Englande agre to thefe binerfittes. Student. Ho verily. af Doctoure. phat ordre then Walbe taken in the lame of Englande if the patrons pary in their prefentmentes. I Studet. After the lames of Englande this ordre Balbe taken'it thei be tornt tenafites ot tenaftes in co mon of the patronagera thei pary in prefentmet the oromary to nat boude to admyt none of their clerkes neyther the mote parte not the lelle / 718 the.vi.monethes paffe or thei agre the be maye prefent by the laps. But he may nat prefent with su the.vi.monethes/for if he bo thei maye agre z bipnge a Quare impedit agaynft him i remone bis clerkerand fo the ordrnary Walbe as a byfo surbour. And if the patrons haue the patronage be discente as coperceners then is the ordenarie bounde to admyt the clerke of the eldelt fifter for the eldeft fhall haue the pferment i the law if the wpilland then at the nexte auoydaunce the nexte friter fall prefent and fo by turne one friter afe ter another tyll all the friters or their heyres ha pe prefented and then the eldeft fyfter fhal begys

agarnerand this is called a prefenting by turner and it holderh almar bytmene coperceners of an Aduoufon:excepte thet agre to prefent togyder/ or that thei agre by composition to pretente in fome other maner and it ther bo fothat agremet mult flande but this muft be alwaye excepte that if at the tirfte auordaunce that Calbe atter the beil of the comon sunceftre the krnge haue the warde of the rongelt boughter , that then the kruge by his picrogarrue Dali baue ibe picfent ment. Endat the nert auoydauce the eldelt friter and fo by turne. But it is to vuderftande that if after the beth of the comon aunceftre the chirche voideib z the eldelt fyfter pfenteth togyder with another of the fyfters , a theother fyfters every one in their owne name or togyder that in that cafe the ordinary is not bounde to recepue none of their clerkes butmar fuffre the chirche to ren in to the laps as it is faid beforei for he fall nat te boude to reces ue the clerke of the eldeft fifter, but where fe presenteth in ber onne name. End in this cafe where the patrons varie in prefentes ment the chirche is nat properlye faid lengioufe fo that the ordinarie folde be boude at his petyllto birecte a matte to enquere, De ture patro natus/loz that writte lyeth, where two prefente by feuerall tytles but ibefe patrons prefent all in one title and therfore the ordinarie may fuf. fer it to paffe it he myl in to the laps and this ins ner of presentmentes must be observed in this re alme in lawe and confcience.

The exet chaptere.

Mome longe tyme the patron Hall have to presente to a benefyce. The exercichaptere.

Angelica in the title Jus patronatus, the tylarticle, and there it is answered that if the patron be a lay man that he shal have foure mosnethes: and it he be a clerke that he shall have vi. monethes. [Student. And by the comon lame he shall have. vi. monethes whether he be a laye man or a clerke, and I is noo reason why a clerke sholde have more respite then a laye man, but rather the contrarte. I Doctoure. Fro what tyme shall the vi. monethes be accounted.

Maner of the voy aunce/for if the chirch voyde by beth/or creacton/or cession / the. vi. monethes halbe counted fro the vethe of the Encumbent/or fro the creacion/or cession wherof the patron state compelled to take notice at his peryland if the voydauce be by resignation or verrinació then the. vi. monethes shall begynne when the patron hath knowlege grue him by the byshop of the resygnacion or verrinación. Soctoure. what if he haue knowlege therof and nat by the byshop. Student. I suppose it suffiseth nat.

Doctour. Inton is also a cause of voydaunce bowe shall the.vi. monethes be rekened there.

T Studet. There can no vnton be made but the patrons must have knowlege rit must be apoyas

fed who that prefente after that vnton that is to fave one of them or bothe repther to party or by turife one after another as the agrement is spothe vnton and fifth the patron is pring to the as nordanice and is nat i gnoraunt or it ine. Vi. mo nether thathe accompted to the agrement:

Woctour. I fe mel by the reason that thou halt made in this chaptire that renoraute fomtime excuseth in the lame or Englande , for in some of the faid auordaunces it wat excuse the patrons as it appereth by the reasons about mheriote 3 praye the theme me fommbat mbere renoraunce excufeth in the lawe of Englande and phere nat atter thene oppinion. Wwindent. I well with good well here after bo as thou faylt it thou put me in remedraunce therof but I worde pet moue the formbat ferther in fuch questions as I pale moved the before concerning the outerines by twene the lawes of Englande and other tames. for there be many mo cafes theror that have right prete nede tot the good ordre of conference or many plous to be reformed z to be brought in to one oppinion both amonge fpiritual and tems potallias it is in the cafe where poctours holde oppinion that the statutes or laye men that res strayne lybertie to grue landes to the chirche Moide be vorde / and thet fare ferther that if te were probibit by a ftatute that no grit Wolde be made to tozepne , that yet a gyrte made to the chtrche Molde be good for thet lage that the ins fertour may not take amaye the auctorite of the

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The.trti.chapitre.

Superioure and this favenge is offectly agarnite the ftatutes mberby it is probibite that landes Golde nar be gruen in to mortmayn, and theifay alfo that bequelles and gefres to the chirche muft be betermined after t,e law Canon and nat arter the lames and fratutes of lare mentand foo theiregarde moche to whome the grite is made mbether to the chyrche of to meke causes / of to comon persones, and bere more fauoure i gyftes to the churche then to other and the lawe of the realme beholdeth the thenge that is gruen and pretendethe that if the thrage that is gruen he of landes or goodes that the beterminacion theroforright belonginge in this realme to the kringes lawes whether it be to the ipiritual man or temporall i to the chircheor to other , and fo is grete builion in this behalfe when one prefer reth his oppinion and another his and one this iurpfdiccion, and another that . And as it is to fere moze of fpngulartte then of charite, where fore it semeth that thet that haue the gretteft charge over the people, specially to the pelch of their foules , are mooit bounde in confetence bes fore other to loke to this matter, and to bo that in them is in all charite to haue it refourmedinat beholdynge the tempozall turifdiction noz fpirt enal surifdiccion but the comon welth and quret nes of the peple, a that undoutedly wold fhortly tolowe if this outston were put away, whiche & suppose verily myl nat be but that al men within ibe realme bothe and spirituall and tempozall be

The. rruichapitre. 30. lxvi.

oidred rruled by one lawe as to temporal then gesinatwithstandings for as moche as the pur pose of this melitynge is not to treate of this meter therfore g well no ferther speke therof at this tyme. Doctoure. Then g pray the proseedeto another questions thou sayest the mende is to bo. The student. I well with good will.

If a man be excommenged whether he maye in any case be alsoyled without makinge satystaction. The .xxxy.chapitre.

Zubent. In the summe called summa Ros D fella i the title abfolucio quarta the feconde articlentis faid that he that is excommunicate for a mronge if he be able to make faty fraction ought nat to be affoyled but to bo fattiffe and that thet offende that bo affoyle him/but ret nes uertheies he is alloyled : and if he be nat able to make amendes that he mufte ret be affoyled tas kyng a fufficiet gage to fatyffy if he be able here after: oz elles that he make an othe to fatiffre if he be able. Thefe farnges in many thinges holde nat in the lames of England. (Doctour. 3 pray the Wewe me wherm the lame of the realme vas rreth therfro. Student. If a ma be excomunicate in the fpuall court for betitrefpasior fuch other thinges as belong to the kringes crowne z to his royall orgnite there he ought to be affoyled mith out making any fatiffaction for the fogall court

The trruchapure.

exceded their power in that thei helde plee in those cases and the partie if he myil mare there ppon haue a peremunire facias as well agaynfte the partie that fued hi as agayuft the iuge. End therfore in this cafe thei ought in confcience to make abfolucion without any fanfracion/for thes nat onely offended the partie in cellynge bim to answere before them of fuch thringes as belonge to the lame of the realmerbut also the kynge toz fuch futes may lefe grete aduauntages be the rea fon of the mittes originalles indicialles frnes amercyamentes and fuch other thynges as mye ght grome to him it fuche futes had ben taken in his courtes accordinge to his lames, and accore bynge to his fayenge. It appereth in blucre flas tutes that if a man lage violent handes voon a elerke and beare hi that for the beigng amendes Malbe made in the keng; courterand for larenge violent handes vpon the clerke amendes Mall be made in the courte cry pen. And therfore if the inge in the courte cryftyen molde amarde the partie to yelde bamages for the betynge be byd agaynft the ftatute/but admyt that a man be ercommenged for a thrnge that the fpirituall court may amarde the partie to make fatiffaccio of, as for of nat inclofrage of the chirche yardes or for nat apparellynge of the chirche convenye entir. Then 3 thynke the partte mufte makeres Ritucion or laye fufficient caufion if he beable or be be affoyled , but if the partie offre fufficient as mendes and haue his absolucion and the tuge

wyll nat make him bis letters of absolucion if the excommengement be of recorde in the krng court then the kringe may wayte vinto the fpirts tuall tuge commaundringe him to make the pipe his letters of absolucion vpon parne of a contempte and if the faid communication be nat of recorde in the kynges courtes then the partye maye in suche case have his accion agagnite the tuge spirituall for that he wolve nat make hi his letters of absolucion but if he be nat afforled or if he benatable to make fatrifacio: and therfore the tuge spirituall will nat assoyle him what the krnges lames maye bo in that cafe 3 am fomes what in boute and will nat moche speke of it at this tyme but as I suppose he may as well haue his accion in that cafe for the nat affortring bim as where he is afforted and that the tuge well nat make bim bis letters of abfolucio and 3 fup pofe the fame lame be where a man is accursed for a thynge that the tuge had no power to acs curfe him in as for bette/trefpas or fuche other. T Doctour. There be may have other remedies as a Memunire facias or fuche other, and thers fore I suppose the other accion leth nat for him IT Student. The juge and the partye mare be bedert the no peremunire lethrand though thei were alyu e and were condepned in a Bremuntre pet that fold nat avoyde the excommengemen? and therfore I thrnke the accton lreth fpecially of he be therby belayed of accions that he myght have in the kringes courte if the faid excommens

The.rrrid.chapitre.

gement bad nat ben.

The rriuchapitre.

Zudent. Vtis moued in the faid fumme nas med Rofella in the title alienacio.rr.the ris article whether a prelate may refuse a legacre mi erin divers oppinions be recited there which as me thrnketh baue nede after the lames of the realme to be more playnly veclared. ff Doctour. Totay the frem me what the law of the realme mel therin. T Student. 3 thynke that every bze late a fuffreyn that may onely fue a be fued in bis omne name as abbott priole a fich other may refuse any legacy that is made to the house for the legacy is nat pfrte tyll be to who it is made affet to take it/for elles if be myght nat refufe it be myght be cepelled to haue lades wherby he myght i some case haue grete losse but theif be intende to refuse he must as soone as his title by the legacy falleth relinquiffbe to take the pfites of the thrug bequethed for if he ones take the p fites therof be fal nat aft refuse the legacy but yet his fucceffo? may if he myl refufe the takying of the pfites to faue the house for yeldring of ba mages or fro arrerages of retes if any fuch beit like lam is of a remaidre as is ilegacy for thous ghe in the cafe of a remarndre z alfo of a beurfe as most men fap the fre holde is caste vpon hi by the law whethe remarndre or beupfe fullethiret tt is in his liberty to refufe the takring of the pft tes a to refuse the remarndre or beurfe if he wil

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as be might bo of a grite of lades oz goodes fot if a grit be made to a ma that relufeth to rake it the gifte is vorderafit be made to a ma tharis abfent the gyfte taketh nat effecte in bim tyil be affent no more then if a man biffeafe one to ano ther mannes vie he to whose vie the biffeafo is made bath noth puge in the lande ne to no offeas foure tell be agre. And to fuche biffcafons and gyftes an abbot or prioure maye b, fagre as well as any other man but after fome me a bi bop of a beurfe or remayndre that is made to the tyfe Mop and to the beane z chapure not a beane ta chapitre of a beuyle or remaindre made to the ne per the maifter of a colage of fuche a beutle oz remayndre made to him it to bis biethern may nat orfagre wiehout the chapure or bretherner for the byilhop of luche landes as he bath with the beane z chapitre, ne the beane not mailter of fuch landes as thet have with the chaptire may nat anfaere without the chapure and bretherne and therfore fome faye that if the beane or mais fter well refue or bifclarme in the landes that thei haue bythe veurfe or remagndre that that Disclarmoure muhout the chapitre or bretherne so vord Andtherfore it is holde in the lam that if a by Thoppe be vouched to marrantie and the tenaunt byndeth him to the warrauntte by reas fon of a leafe made to him by the byffhoppe and by the beane athe chaptere reldenge a rentithat in that cafe the byffhop may nat bisclayine i that reverció puthout the affet of the neane z chapits.

but ret if a revercion were graunted to a beane ? a chaptire and the beane refuse the graunte is torder for appereth that a beane mare refuse to take a grite or graunt of lades or goodes or of a revercion made to bim and to the chapitre and that yet be may nat or fagre to remayndre or be. ur fe: and the biverfyte is bycaufe the remayndre and beurfe be calt vpon bim mithout any affente mberunto nerther the beane not the chapitre by them felfe mar in no mife orfagre mithout the af fent of the other but a gyft oz graunt is nat good to them ou hout thei bothe affente , and in fuche grftes as Toppole an infaunt mare briagre as well as one of ful age but if a woman covert by fe agre to a grite, and the bufbande agre that grite is good. @ woctoure. what if the landes in that cafe of aman and his wyfe he charged with bas mages tot he charged with more rent then the la de is morth and the bufbande ore fall the myfe be charged to the bamages or to the rente.

Thynke nay if that the wyfe refuse the occupacion of the grounde after ber bushandes beth and I thynke the same lawe to be if a lease be made to the husbade and to the wyfe yeldynge a gretter rente then the lande is worth that the wyfe after the husbandes bethe may refuse the lease to save her fro the payment of the rent and so may the successour of an abbot of the rent and if the husbande i that case over lyve the wyfe and then make his executours and byes whether may his executours in like wife reconstants.

fufethe leafe. I Student. of thet haue goodes fufficient of their telfatoure to pare the rente 3 thyuke thet may nat refufe it but if thet baue nat goodes fufficient of their tellatours to pare the rent to the ende of the terme Itt rake if thei res lynquy The the occupacion thei mare by fpeciall pled, nge picharge them felfe of the rent and the leaferand if thet bo nat thet may lyghtly charge them felfe of their owne goodes. And if a leafe be made for terme of lyfe the remarndre to an ab bot for terme of the lyte of Johan at Style refer uynge a gretter rente then the lande ta morthe: and after the tenaunt for terme of lyfe oveth the abbot may refuse the remarndre for the cause be fore reberfed and in cafe that the abbot affente to the remaindre wherhy he is charged to the rente burrnge the tome that be is abbot, and afe ter be bieth or is bepoled lyurnge the faid John at Strle in that cafe bis succe foure mare bile charge bim felfe by refufrige the occupacion of the lande as is aforefaid . But 3 thynke that if fuche a remaindre mere made to a beane, and to the chapitre, and the beane agre muhout the afs fente of the chapttre that in that cafe the beane and the chapitre may afterwarde bifagre to the remarndre and that the acte of the beane with out the affente of the chapitre fall nat charge the chapitre in that behalf, and thus it appereth thoughe the meanringe of the faid chapitre and artitle in the faid fumme be ithata prelate may mat bifagre to a legacye for burtyng of the boufe

The rettin chapitre

yet he may after the lawes of the realme byfagre therto where it folde burte bis boufe.

If in a Brecipe quod reddat there be but onetes naunt be he spirituali of temporaliand be refuse by way of bifclapmoure in fuche cafe where may Disclayme by the lame, there the lande (bal vene in the demandant/t if there be two tenantes the it hall vefte in his felowaf he myll take the hole tenauncee voon him lor elles it fhall vefte in the bemaudaunt. But if an abbot or a lay man refuse the takynge of the profites; and fheme a speciall caufe mby it folde burte bim if be byde affent ? be therby offcharged in whome the lande fall then vefte it is more boute wherof I mri no fers ther fpeke of at this tyme. And thus it appereth by owers of the cafes that be put in this chapis tre that he that is ygnoraunte in the lame of the realine ball lacke the treme tugement of confci ence in many cafes , for in many of thefe cafes that that may be bone theren by the lawe mufte alfo be obferued in confcience. Te.

I whether a gyft made vnder a condicion be vorde if the fouererne on ely breke the condicion.
The xxxun chapitre.

Dudent. In summa Rosella in the title alies naciorthe. zu. article is asked this question whether a gyft made vinder a certapi forme may be anoyded or renoked bycause the presale or soo

uerern only orde breke theforme zit is there an Imered that it maye nat for that the bede of the prelate onelpought nat to burte the churcherand if thefe mordes vnder a maner be vnderstande of agyfe voon consicion as thei feme to be the the fard folucion holdeth nat in this realme neyther in lamenoz confcience T Boctoure. mhat is the lame of Englande if a man enfeffe an abbot by bede indented toon condicion that if the abbot pay nat to the feffo? a certayne fome ofmoney at fuch a par that theit thatbe lawful to the felfo? to reentre z at that bay the abbot far leth of bis payment maye the feffourt lawfully reentre and put out the abbot. [Student. Ye verily for be bad right to the lande but by the gyfte of the felfour and his gyfte was condicionel and there forest the condicton be bicken it is lawfull for the fettoure to reentre and to take his lande as gayne and to holde it as i his first effate by whi che reenter after the lawes of the realue be bil proueth the first lyuerey of feafon all the meane actes bone bytmene the firft feffement a the reen tre and it forfeth lytell in the lawe in whome the befaute be that the condicion was nat pformed whether in the abbot of in his couent of in both or in any other perfoue what fo euer he be ere cepte it be in the feffour him felfe. End it is grete piverfite bytmene a clere gyfte made to an abs bot without condicion , and where it is made with condicion for when it is made without con bicion the acte of the abbot only Walnut by the

The rriin chapitre

comon lame oufherpte the house but it be in very teme cales, but yet pon owers fatutes the fufe fraunce of theabbot onely mare offherrie the house as by his cessoure or by leureng of a crosse vpon a boufe agaynft the ftatute therof made, in whiche case the house therby thall lese the lande and some sare that by the comon lame vpon bis offclaymour, poon auourre a maytte of right of oliciarmour lyeth but if the grite be von cons dicton it handeth nerther with lame noz confci ence that the abbot fold bane any moze perfite or fure eltate then mas gruen vnto him and ther fore as the faid effate mas made to the houfe. va pon condicion fo that effate may be avayded for nat perfourmyng of the condicion, and Athenke verily that this that I baue faid is to be holden in this realme bothe in lame and conscience, and that the becrees of the chirche to the contrarte bride nat in this cale. But if landes be gruen to an abbot and to his covent to the entent to fynde a lampe or to grue certarne almes to poore men thoughe the intente be nat in those cases fulfyle led yet the feffoure not his herres mar nat reens tre for he referued no reentre by expresse mordes ne in the worden when he farth to the entente to fynde a lamperor to gyue almes. zc. is implied no reentreme the feffoure not bis bertes fall baue no remedre in suche cases, onclesse it be within the case of the statute of westinynstre the seconde that grueth the Cellauit De cantaria.

Twhether a couenaunt made von a grite to the chirche that it Mall nat be alrened be good. Lhe.xxxvchapure.

Student. In the faid fumme called fumma article is afked this queltion / whether a coues naut made vpoa gyit to the chirche that it fhal nat be altened be good. And the fame queftions is moved agaynein the faid fumme called 2306 fella in the title condicio the first article and in fumma Angelica/in the title bonatto prima the li,and.li.articles and the entent of the queltion to there whether nat wuhltandrnge that the co bicion be good to fome alienacios whether that yet it be good to reftrayne alienacions for the re bempcion of them that be in captiuite vinder the infydelles or for the gretter aduquntage to the house and thoughethe better oppinion be that the condicion may nat be broken for redempcion of them that be in captimite yet it is in maner a hole oppinion that it may be folde for the grets ter aduantage to the houfe. fortt is faid there that it may nat be take but that the intent of the gyuer was forand therfore thet calle the condis cion that probibiteth it to be folder condicio tur pisithat is to fapera wyle condicion, and neuers theleffe as 3 take it if a condicion may restrayne any maner of altenacion that then it hal as mel be good to restrayne altenacions for the two cau les before reberfed as for any other caufes, and

The rery chapitre.

though me thenketh that that codicion is good after the lawe of the realmethat voon syftes to the chirche reftragneth alvenacions , ver 3 Mall touche one reason that is made to the contrary, for troush it is that there is a clere groude in the lawe that if a festement made to a comon perfon in fee ppo condicion chat the feife fhal nat altene to no ma that that condicion is poyde bycaufe it to centrary to the effate of a fee fymple to bynde bithat bath that eftate that be Wolde nat aliene it beipftig fome fay that an abbot that hath lade to hun and to his inceffours hath as high zas pfite a fee lympic as bath a lape man that hathe lande to him and to his herres / z therroze they fay that it is as well agaynft the lame of the res alme to probibit that the abbot Mall nat aliene sait is to probibite a lay manther of thoughe tibe therm true as thet fare as to the hyghnes of the eltate , ret me thynketh there is grete oy? uerfine bytwene the cafes concernynge their as lienacions for mben landes be gyuen in fee fyma ple to a comon persone the intent of the lawe is that the feffe fall have power to ahene land if he boo aliene it is nat agaynfte the entent of the lame ne yet agaynfte the intente of the feffoure but whenne landes be gruen to an abbot and to his fuccessoures the intente of the lame is , and alfo of the gyuer as it is to prefume that it fold remarne in the house for ever and therfore it is called mortmayne , that is to fage a beed hande and who farth that it thall abyde there always

as a thring vede to the houfe. And therfore as 3 fuppofe the lawe myil fuire that condicion to be good that is made to reftragne that fuche mosts mayne folde nor be altened and that ret it may prohibite the fame condicion to be made vpon & fetfemente made in fee frimple to a man and to his birres for that is the mooft brebithe mooft fre and the mooit pureft ftate that to in the law. But the lam fuffreth fuche a codicion to be made vpon a grite in tayle bycaufe the flatute prohiby teth that no allenacion folde be made therof. And for as moche as the lame fuffreth tuche a condicton vpon a grfte in mortmarne that is to fage that it fall nat be aliened to be good then it ingeth the condiction also accordinge to the mordes that is to fare if the condicion be genes rall that thet hall aliene to no man as this cafe is that it halbe taken generally accordinge to the mordes and it Wall nat betaken that the ins tent of the gyuer was othermife the be expressed in his grft though percale if he mere a lyue him felfe and the question were afked hun whether be wolde be contented it Wolde be altened for the farde two caufes or nat / be wolde fare re / but whenne he is bede no man hathe auctorite to ine terpretate his gyfte otherwife thenne the lame fuffereib ne otherwise thenne the mordes of the gyfte be. And if the condicton be ipecrall/that is to fare that the lande Wall nar be altened to fus she a man or fuch a man then the condicion fhat be taken accordinge to the wordes: and theune

Therry chapttre.

that may be altened as for that condicion to any other but to them to whome it is expressely pros bibite that the land! fooide nat be allened to. And if the landes in that cafe be altened to one that is nat excepte in the condicion then he may attene the lade to him that to first excepted mith out brekeng of the condicion / for condicions be taken ftragtely in the lawe and without equyte. And thus me thynketh that bycaufe the faid cos dicton is general and reftragneth all altenacions that it may nat be aliened neyther by the lawe of the realme ne yet by conscience . no more lor the faid two caufes the thei may for any other caufe and this case must of necessyte be tuged after the rules and groundes of the lawe or the realines and after none other lame.

Mithe patrone present nat within. VL.

Tudent. In the faid summe called summe Bosella in the title beneficium in principio, it is asked if the patrone presente nat within vi. monethes who shall presente and within what tyme the presentemente muste be made.

And it is answered there that it the patron pressente nat within, vi. monethes that the chaptere shall have, vi. monethes that the chapter shall have, vi. monethesto present and if the chaptere presente nat within, vi. monethes that then the byshop shall have other, vi. monethes that the head if he be neglygent, then the inetropolitance

Mall haue other. vi. monethes , and if be prefent hat then the presentment is devolute to the pa triarke. And if the metropolitane have no fupes rioure then the presentment is bevolute to the pope. And fo as it is faid there the archbiffhop Mail supplye the necly sence of the by Thoppe if he be nat exempt/z if he be exempte the preients ment immediately fall fall to the pope. And as I suppose these omerittes holde nat i the lames of the realme. [Doctoure. Lien I prage the theme me who wall present by the lawes of the realme if the patron boo nat prefent within his vi.monethes. (Student. Then for pefaute of the patron the bollhop Wall prefent, oneles the kruge be patrone and it the briffhop prefent nat within. vi. monethes , then the metropolytane Shall present whether the billhop be exempte or uat. And if the metropolitane prefent nat withi the trine limitted by the lame , then there be ois uers oppinions who hall prefent, for some fare that the pope Wall prefent as it is faid beforer ? fome fare the kringe fall prefent. [Doctoure, what reason make thei that fay the kyng holde prefent in that cafe. (Student. This is theu reason/thet fage that the king is patrone pera mounte of all the benifices within the realme. And ther fage ferther that the kring and his pro genitours kynges of Englande without trine of mide have had auctorite to betermine the right of patronages in the realme in their owne cours tes and are bounden to fe their fubiectes baue

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The exertichapure.

right in that behalf within the realize and that in that case fro hilleth no appele And then thei saye that if the pope is this case sholde present that then the kyage sholde nat onely lese his patronage per amounte but also that he sholde nat somety be sholdenat somety be sholdenat.

al Boctoure. In what case were that. & Stue dentate is in this cale the lame of the realine is that if a benefice falle por de that the patrone spell present within. vi. monethes , and if he bo nate that then the ordinarie Mail prefent / pros ur led that if the parrone prefent before the ore binarie put in his clerke, that the thepatrone of reght hal emore his presentment. And fo it is though the teme Golde fall after to the metros politane or to the pope , and if the presentment Spoide fall to the poperthen though the aduous fon abode fir! porde fo that the patrone mrght of right prefent pet the patrone Malnat kno we to mbom be fhold prefent, oneleffe be folde go leo the poperand so he hold faple of right with in the realme. And it percase he mente to the pope and prefented an able clerke puto him/and verbis clerke were refused and another out in at the collecton of the pope or of the prefents ment of a ftraunger ret the patrone coulde has uchoo remedie for that mronge within the res almerfor the Encumbent mrght abyde fril out of he realme. And therfore the lawe well fufe freno title in this cafe to fall to the pope. And thei fay that fot a like reason it is that the lame of the realine myll nat alome an excommenges

The zzzvi.chapure.

fo.lxriig.

ment that is certified in to the kynges court yns der the popes buties. For if the partie offered function amendes and yet coulde not optayne his letters of absolucion the kynge sholde not knowe to whome to wryte for the letters of absolucion and so the partie coulde not have right

and that the lame wyll in no myfe fuffre.

ef Bodtoure. The patrone to that cafe mare prefent to the ordinarte as longe as the chirche 19 voyde / and if the ordinarie excepte bim nat/ the patron maye haue his remedie agarnft him within the realine. But if the pope wyll putte in an Encumbent before the patrone prefenter it is reason that he have the prefermente es me femeth before the kynge. I Student, when the ordinarie bathe iurceffed pis tyme he hathe lofte his power as to that presentemente / spes cialif if the collacton be beuolued to the pope. And also when the presentemente is in the mes tropolitane he mall put in the clerke bim felfe and nat the ordinariers fo there is no befaute in the ordinarie thoughe he prefent nat the clerke of the patrone if his trine be pafte and fo there lyeth no remedie agayafte him for the patrone. Doctoure. Thoughe the Encumbent abyde fivil out of realme yet mare a Quare impedit lre agaynfte him within therealme and if the Encumbent make befaute voon the oiftreffe and appere nat to theme his title , then the patrone hall have a writte to the brillop accordinge to the statute and so he is nat without remedie.

K.88

The erry chapttre.

WStudent. But in this cafe be can nat be fomo ned/attached not oiftragned within the realine. octour. be may be fomoned by the chirche as the tenaut may i awirtte of right of Auoulo. MStudent. There the Auguson is in bemaunde and here the presentment is onely in bebate/and to be can nat be formoned by the chirche here no more then if it were in a wrytte of Annuyte and there the comon returne ts. Quod clericus eft et autypsbeneficiatus non habens laicum feodum vbi pos darks telt summoniri. And thoughe he myght be sos moved in the chirche i yet he myght neyther be attached nor oiftragued there and fo the patron Sholde be mithout remedie. @ Doctoure. And tr be were without remedie be sholde vet be in as good cafe as he Wolde be if the kringe Wolde present for if the title sholde be grue to the kring the patrone bad loft bis presentment clerely for that tyme thoughe the chirche abyde ftyl voyde Student. That is true, but there the prefents ment sholde be taken fro bin by the lame and bere it holde be taken fro him agapuft the lame and there as the lawe coulde nat helpe him and h it the lame myl nat fuffre. [Doctour. vet me thyaketh alway that the title of the laps in such cafe 13 gruen by the la we of the chirche and nat by the temporall lame, and therfore it forfeth nat but lytell mhat the temporall lawe wyll in it 13 me feineth. @ Student . In fuche couns trers where the pope hath power to betermine

the right of temporall thringes I thrinke it is as thou fayest, but in the is realme it is nat fo. End the right of prefentm ent is a temporall thringe and a temporall enheritaunce and therfore 3 thrnke it belongeth to the kynges lawe to beter mine/and alfo to make lames who fall prefent after the vi.monethes/as well as before/fo that the title of examinacion of habilite or none has bilite be nat therby take fro the ordinaries, and in likewife it is of auordaunce of benefices:that is to fare that it hall be iuged by the kinges lames when a benefice Malbe faid voyde a whe natiand nat by the lame of the chirche as mben a persone is made a byffhop or accepteth anos ther benefice without licence or refraneth 102 is bepruedin thefe cafes the como law farth that the benefices be and fo thei be vorde thoughe a lawe were made by the chirche to the contrarge and foif the pope folde have any title in this cafe to prefent it folde be by the lawe of the res alme. And 3 haue nat fene ne herde that the law of the realme hath gruen any title to the pope to betermine any temporal theng that may be lame fully betermined by the kinges court. [Docto?. It semeth by that reason that thou haste made nowe that thou preferreft the kringes auctoritie in prefentmentes before the popes, and that me thynketh Molde nat ftande with the lame of god fyth the pope is the vrcar generall under god. Student. That I haue fatd proueth nat that. for the hyghest preferment in prefentmentes is

The rrevichapitre

to have auctorite to examine the habilite of the pfon that is prefented for if the prefente be able it sufficeth to the discharge of the ordinarie by whome fo euer he be pfented/t that auctorite is hat benged by the lawe of the realme to belonge almay to the foir itual iurifdiccion but my meas nying is that as to the right of the prefentmetes to betermine who ought to prefent a who nat and at what tyme, and when the chirche halbe tuged to be vorde z when nat belongeth to the kynge and his lawes , for elles it mere a thynge in payne for him to holde plee of adueufons / oz to betermine the right of patronage in his owne. courtes and thefe claymes femeth nat to be as garuft the law of god. And fo me femeth in this cafe the prefentment is grue to the kring. of Doc our. End if the krng Molde haue right to pres fent then might the chirch happen to contynue borde for ever for as we have faide before noo tome renneth to the krng in fuche prefentmetes. TStudent. Pf any fuch cafe happe of the kring pfent nat then may the ordinarie fet in a beputy to ferue the cure as he may bo whe neclygece is in other that may prefent too nat / talfo it can nat be thought that the kringe whiche hath the rule and governance over the people nat only of their bodies but alfo of their foules myl hurt his confcience & fuffre a benefice cotynuelly to frande. without a curate no more the he both tauoufos of his owne patronage.

whether the presentment and collecton of all benefices and dignities vordinge at Rome only belonge to the pope.

The xxxvű chapitre

on the title beneficia prima in the ria, article. It is said that benefices dignites, and personages vordying in the court of Rome may not be grue but by the pope, the wife of the popes serious tes to other that come and go fro the court if their ope in places nye to the courte within two dayes tourney all these belongs to the pope, but that after a moneth their o whom it belogeth to present may present by the selfe only or by their vicar general if their be is farre pries these says enges holde not in the lawes of the realms.

el Docto2. what is the cause that thet holdenat

TStudent. One cause is this thekringe in this realine accordings to the auncient right of his crowner of all his advousons that he of his pastronage oweth to present. And in his wife other patrons of benefices of their presentment, and the piec of the right of presentementes of henes sices within this realine belongs to the krings and his crowne. And these titles can not be tasken fro the krings and his subjectes but by their allens, and so the law that is made therm to put away that title brinds hat in this realine, and quer that before the statute of the content of Edwards

The.rrevil.chapitre.

the thride there was a grete inconvenience and. myschiefe by reason of owers proutsons and re feruacions that the pope made to benefices in this realme contrarge to the olde right of the kynge and other pairons in this realme as well to archeby (hopriches / brillopriches / beanes ries and abbayes, as to other bignites and bes nefices of the chirche. And many tymes aliens therby had benefices within the realme that yn perstode nat the Englyffe tonge , foo that thet coulde nat coufayle ne comforte the people whe nede required. And by that occasio grete riches was conveyed out of the realme, wherfore to a norde suche inconvenience it was ordemed by the faid statute that all patrons as wel spiritual. as temporall folde baue their presentmentes freir:and in cafe that collacio, or prouision were made by the pope in bistourbaunce of any fpiris tuall patrone that then for that tyme the kynge. Molde haue the prefentment and if it mere in by furbaunce of any lay patron that then if the pa trone presented nat within the halfe rere after suche poydaunce not the byshop of the place within a moneth after the halfe rere that then the kinge fold haue the prefentment and that the king hold haue alfo the pfites of the bene. fices foo occupied by prouision excepte abbers and briozes and other houses that have collage and couent and there the collage and couent to have the profites, and bycaufe the fratute is ges nerall and excepteth nat suche benefices as shal

porde in the courte of Rome or in suche other place as before appereth therfore thei be taken to be within the prouision of the faid estatute as well as the benefices that voyde within the res alme, and all proutfours and executours of the faid collacions and prouisions and all their ate turneys notartes and maynteynours shalbe out of the proteccion of the kynge and fal haue the like punishement as thei folde baue for exceus trage of benefices vordrage within the realme. Tooctour. But I can nat fe how the faid fta. tute may frande with conscience that so ferreres firagneth the pope of his lyberty whiche as me femeth he ought in this cafe of right to have. Student. Bycaufe as 3 suppose the patrons ought of right to have their prefentmentes vis der fuche maner as thei clapme them in this res alme as 3 haue faid before i and as in the. rryi. chapitre of this boke appereth. And alfo for as moche as it appered eurdently that grete incon uentence folowed ypon the faid prouttions, and that the faid estatute was made to auorde the fame, whiche fith that tyme bath ben fuffred by the pope and hath ben alway vied i this realme without resistaunce that the faid statute sholde

I yf a houfe by chaunce falle voon a horse that is borowed who wall berethe lose :. The.xxxviii.chapitre.

therfore stande with good conscience.

The exervio chapitre:

W Student. In the faid fumme called fumma Bofellain the title Cafus fortuitus in the bes grunrige is put this cafe/if a man lende to ano. ther a horse whiche is called there bepositu and a house by chauce falleth voo the hoza whether in that cafe he Mall answere for the horse. And it is answered that if the house mere like to falle that then it can nat to taken as a chaunce but as the befaute of him that had the horfe belruered to him but if the house were stronge and of like lyhode and by comon prefumption in no baune ger of fallynge but that it fell by foderne tepeft or fuche other cafueltrethen it Chalbe taken as a chaunce, and he that had the kepynge of the borfe falbe bischarged it though this owerfite agreeth with the lawes of the realme yet for the more playner beclaracion therof and for other like cases and chaunces that mare happen to goodes that a man hath in his kepynge that be nat his owne. I hal adde a lytell more that hal be sommhat necessarie as me thynketh to the orderunge of conscience. firft a man mare haue of another by wave of love or borowinge mos ner corner wyne and fuch other thringes where the fame thringe can nat be redelruered if it be occupied but another thynge of like nature and like value must be redelyuered for it , and suche thynges he that thei be lente to mare by force of that lone vie as his owne. And therfore if thet perpate it is at his reoperdre and this is mooft propertre called a lone. Alfo a man may lende. to a nother a borfe, an ore la carte, or fuche of ther thringes that may be redelyuered agayner and thet be force of that lone maye be wied and accupied reasonablye i such maner as thei mere borowed for lor as it was agreed at the tyme of the lone that thet (bolde be occupted, and if fus the thringes be occupied other wyfe then accous dynge to the entent of the lone, and in that occu pacion thei peryibe in what wife fo euer thei periffhe fo it be nat in befaute of the owner be that bozomed them halbe charged therwith in lame and confcience and if be that bozomed the occupre them in suche maner as thei were leute for, and in that occupacion thei perfifte in bes faute of him that thei mere lente to:then be fhai ansmere for the. And if thei periffe nat thrugh his pefaute then he that oweth them Mall bere the loffe. Alfo if a man have goodes to kepe to a certeyne daye for a certeyne recompence for the kepringe whether he Gall frande chargedoz nat charged after as befaute or no befaute fhall be in him as before appereth , and fo it is if be have nothinge for the kepringe but if be baue for the kepringe and make promyfe at the tyme of the bely urye to redely uer them faufe at his pergilithen be shal be charged with all chauns ces that may fall. But if he make that promyfe and have nothing for the kepringe, I thrinke he is bounde to noo fuche casueltres but that be mylfoll and in his open befaute , for that is a aude or a naked promife wherupon as I hippofe

The exervide chapitre

no accion lieth. Alfo if a man frude goodes of a nother if thei be after burte or loft by wylful nes clygence he halbe charged to the owner / but if thei be loft by other cafueltre as if thei be lande in a house that by chaunce is burned or if he be lpuer the to another to kepe that renneth away with them I thynke he be bischarged and these diuesites holde moost comonly voon pledges or where a man hyereth goodes of his neyghbour to a certague day for certegue money and many diversites be in the law of the realme what hal be to the leoperdie of the one and what of the os ther whiche I myll nat speke of at this tyme. And by this it may appere that as it is comoly holden in the lawe of Englande if a comon cas riar go by bymayes that be baungerous for rob bynge or brue by night or in other vaconuenys ent tyme and be robbed or if he ouer charge a horse wherby he falleth in the mater or others wife fo that the ftuffe is hurte or imperzed, that he hal ftande charged for his myfoemeanoure and if he molde percase resuse to carp it/onelesse promife mere made vnto him that he Wall nat be charged for no mysdemeanoure that holde be in him/that promise mere voyde/forit mere a gaynst reason and agaynst good maners , and so it is in all other caufes like and all thefe biuerfis tes be grounded by fecundarie conclucions biri? uted vpon the lame of reason without any estas tute made in that behalferand peraduenture the lawes the coclusions therm be the more plarne

and more open/for if any statute were made ther on I thynke verily mo voutes and mo questions woldryse vpon that statute then both now whe thei be only argued a juged after the como lawe

of masse, whether he maye grue those goodes or make a well of them.

The xxxx chapure. Zudent. In the faid fumme called fumma D'Rosella in the ticle clericus quartus, the thirde article / 18 afked this quellion / if a preelt hath wonne moche goodes by farenge of maffe whether he maye grue those goodes or meke a myll of them imperto it is answered there that he mar grue them or make a myll of them fpes cially when a man bequetheth money for to has ue maffes faid for him , and that lyke lame is of fuche thrnges as a clerke wrnneth by the reafo of his office for it is faid there that fuche thens ges come to him by reason of his owne persone, whiche fariges I thynke accorde with the law of the realme. But for as moche as in the faid ar ticle and in owers other places of the faid chapi tre and in biuers other chapitres also of the faid fames/is put gret diversite bitmene fuch goodes as a clerke hath by reason of his chirche and fu che goodes as he hath by reason of his persone that he must oifpose such goodes as be bath be reason of his chirch in suche maner as is aporn sed by the law of the chirche fo that he may nat

The retir chapitre.

dispose them so lyberally as he may the goodes that come by reason of his owne persone, there fore I mala irtel touche what spiritual me may Do wich their goodes aft the law of the realme firit auxilhop of fuch goodes as he hath with the deane a the chaptire be maye neyther make gefre not bequest but of such goodes as he hath of his owneby reason of his chircheoz of the gefte of his auncesters or of any other or of his patrimonye he may bothe make grites and bes queltes la williy. And an abbot of the goodes of his chirche mar make a gifte the grit is good as to the lame But what it is in conscience that is after the cause rentent a quantyte of the grit for if it be so moche that it notablye hurteth the house or the conentrol if he gave away the bok? or the chalices or fuche other theng; as belong to the scrupce of god he offendeth in conscience and rethe is nat punyifhable in the lame ne ret by a Sub pena after some menne in none other wife but by the lame of the chirche as a walter of the goodes of his monasterr. But neuerthes les 3 wilnat fully holde that oppinio as to that that belongeth necessaryly to the serupce of god whether any remedy lye against him or natibut rempt it to the tugement of other. And a beane rachapitre ramarster abzetherne of goodes theibaue to them felfe. And also of goodes that cheibaue miti; the chapit z bretherne the fame biuerfite holdeth as apereth before of a byffhop and the beane a chapitre except that in the cafe

of a maister and bretherne the goodes shalbe ordred as malbe affygned by the foundacton. And moreover of a person of a chircherypearit chaunterpe preett or fuch other all fuch goodes as thet haueras well fuche as ther haue by reafo of the personage/picarage/oz chautery/ as that thet have by reason of their owne persone thet may lawfully grue and bequesh where thei myl after the comon lame. But if thei dispose parte amonge their pariffens a pie to the buyldringe of chirches or grue parte to the ordynarie or to pore menior in fuche other maner as is apport tedby the lame of the chirche thei offende nat therm oneles thei thynke them felfe bounden therto by duetye and by auctorife of the lame of the chirchemat regarding the kyng lames, for If thei do fo it semeth thei resest the ordinaunce of god mhiche hath gruen power to princes to make lames. But there as the pope hath foues rayntre in teporal ihrnges as he bath in fpiris tuall thruges there the goodes of prestes muste in conscience be oisposed as is conterned in the faid summe but that holdeth nat in this realine for the goodes of spirituall men be temporall in what maner fo euer thei come to them and muft be ordered after the tepozal lame as the goodes of teporall men must be. wow be it if there were a statute made in this case of like effecte in many poyntes as the lawe of the chirche 18/3 thynke it were a ryght good and a profreable itature.

The.xl.chapitre.

Twho hall succede a clerke that bieth inteltare. Che.xl.chapitre.

Zudent. In the faid fumme called Rofella Din the chapitre Clericus quartus , the. vil. article is afked this question/who wall succede to acterae that vieth iteltate. And it is answered that in goodes gotten by reason of the chirche the chirche hal succede but in other goodes his kynnesmen wall succede after the ordre of the law and if there be no kynnesmen then the chirs che shall succede. And it is there faid ferther that goodes gotten by a chanon feculer by reas fon othis chirche or prebent shall nat go to his successoure in the prebent , but to the chaptire. But where one that is beneficed to of the cons gregacion/but he hathe a benefice clerely fepes rate/asifhe be a perfon of a pary The chirche or ta a president or is an archedeacon nat benefis ced by the chapitre then the goodes gotten by reason of his benefice/ihall go to his successour t nat to the chapitre and none of all thefe farns ges holde place in the lames of Englande.

Octoure. what is then the lawe if a person or a chirche or a vicar in the countrey of interstate or if a chano seculer be also by a person and have good by reason there and also a prebende that he hath in a cathedral chirch and he ove intestate who shall have his goodes. I Student. At the comon lawe the ordinarie in all these casses may administre the goodes 7 after he muste

comptte administracion to the nexte fapthfull frendes of bim that is bede inteltate that well defire it as he is bounden to do where lage men that have goodes ove inteltate . And if no man befire to haue administracion thenthe ordinarie may adminitre and fe the bettes payde and he multe bemare that he paye the bettes after luch ordre as is appopried in the comon lawerfor ir he pare bettes vpon frmple contractes before an obligacion he Walbe compelled to pare the bette vpon the obligacion of his owne goodes if there be nat goodes sufficient of him that bied inteltate and though it be fuffred in fuche cafe that the ordinarie may pay pounde and pounde like that is to a porcion the goodes amongethe bettours after his biscrecion yet by the rygoure of the comon lawe he myght be charged to him that can first haue his tugement agaynte him. And ferthermoze by that is faid afoze in the laft chapitre appereth if a byffop that hath goodes of his by Thopsyche or of his patrimonyer or a maifter of a collage or a beane of goodes that thet have of their owne onely to them felfe ore inteltate/that the ordinarie fall commyt admy niftracion therof as before appereth and if thei make executours then the executours Wolde ha ue the ministració therofibut the herres nor the kynnesmen by that reason only that thei be hepo res oz krnne to him that is beceffed Mali haue no medlynge with his goodes excepte it be by custome of some courreys where the herres shall 12.1.

The xlichapitre.

have herre lomes or where the chyldren the bettes and legacres payoe thall have a reafornable parte of the goodes after the custome of the countrey.

The clerke be promoted to the title of his patrimonye and after felleth his patrimonye and after falleth to pouertre whether shall he have his title therm or nat.

The.zli. chapitre.

Tudent. In the faide fumme called Rofella m the title clericus quartus/the.reing.artis cle it is afked if a clerke be promoted to the title of his patrimony whether he may aliene it at his pleasure and whether in that altenacion the fos lemparte nedeth to be kept that is to be kept in altenacion of thong of the chirche and it is ans freed there that it may nat be aliened no more then the goodes of a spirituall benefice if it be accepted for a tytle and expressely asfigned onto him fo that it folde go as in to a thyinge of the chircheiercept he haue after another bes nefice wherofhe may lyue. But if it be fecretely affraned to his title fome agree it may be alies ned and in this cafe by the lawes of the realme it may be lawfully aliened whether it be fecretly or openir allygned to his trile for the ordinary ne pet the party hi felfe after the olde cultomes of the realme haue no auctorite to by nde any inberitaunce by auctorite of the fpirituall lame and therfore the lande after it is affygned and

accepted to be hittele ftadeth i the fame felf cafe to be bought folderch argedioz put in execucion as it orde before. And therfore it is fommhat to be meruapled that ordinaries wyll admyt fuche lande for a tytle to the intent that be that is pro moted foldenat fall to extreme pouertye or go openly a beggringe/without knowing how the comon lame myll ferue therin for of mere ryghe all inheritaunce within this realme ought to be ordered by the kynges lames and inheritaunce can nat be bouden in this realme but by fyne oz fome other mater of recorde, or by feffement or fuche other or at the leeft by abargayne that chaungeth an vie. And ouer thatto allygne & ftate for terme of lyfe to him that hath a tee fyns ple before. 18 voyde in the lames of Englande without it be by fuche a matter that it worke by way of conclusion or estopell and in this cafe is no fuche matter of conclusion, and therfore all that is bone in fuch cafe in affrgurng of the faid trile is voyde. Blio there is no intereft that a man bathe in an maner landes or tenementes for terme of lyfe , for terme of yeres or others mile butthat he by the lam of the realme may out away his ryght therin if be myll. End then mben this man alieneth his lande generally it were agarnft the law of the realme that any ins tereft of fuche a trile folde remayne in bim as garnit his owne fale, and there is no biverfitre whether the allygnement of the title were open or fecretiz fo that tytle is poyde to all intentes;

The rli chapitre.

And in likemife if a house of religio or any other fpirituall man that hathe graunted atitle after the custome pfed in suche trtles fell all the lans des and goodes that thet have that fale in the lames of Englande is good as agarnft that titte and the brer thall never be putte to answere to that title. Bifo fome fare that voon the comon titles that be made barir i fuch cafe that if he fal to pouertye that hath the title he is without re medie for thei be fo made that at the comon law there is no remedye for them , and if he take a fute in a foirituali courte many men fage that a probibicion or a Menunire lieth And iherfore it mere good for ordinaries in fuche cafe to cou fayle with them that be lerned in the lawe of the realme to have suche a fourme beurfed for mas kynge of fuche tytles that if nede be molde ferue them that they be made vnto, or elles let them be promoted without any title and to trufte in god that if thei ferue him as thei ought to bo he myll proupde for them to have sufficient for the to lyue vpon. And besyde these cases that 3 has ue remembred before there be many other cafes put in the faid fummes for the well ordering of confcience/that as me thynketh are nat to be ob ferued in this realme neyther in lame noz i confct ence. Moctour. Dofte thou then thrnke that there was befaute in them that breme the faide fummes and put therm suche cases and such fos lucions that as thou thynkest hurte conscience, rather then to grue any lyght to it foecially as

in this realme . (Student: 3 thynke noo bes faute in them/but 3 thynke that thei were right well and charitably occupied to take fo grete payne and laboure as thei byde therm for the welth of the people and clerynge of their cons fctences for thet have therby gruen a right gret lyght in conscience to all countrets where the lame Lyuyle and the lame Canon be pfed to tem potal thynges. But as for the lawes of this res alme thei knewe them nat ne thei were nat boud to knowe them and if thei had knowen them it molde lytell haue holpe for the countreis that thet most specially made their treatyces for and in this countrey also thei be right necessarie and moche profitable to all men for suche poutes as ryfe in conscience in byuers other maners nat co cernynge the lame of the realme. And 3 mers uaple gretely that none of them that in this res alme are mooft bounden to bo that in them is to kepe the people in a right tugement and in a cles renes of conscience haue bone no moze in tyme paft to haue the law of the realme knowen then thet have bone , for thoughe ygnoraunce mare fomtyme excuse ret the knowlege of the trouth and the treme tugemente is moche better and fomtyme thoughe ygnozaunce excufeth in parte tt excufeth nat in all , and therfore me thynketh thei brde very well if thei wolde yet be callers on to have that poynt refourmed as fortely as thet coulderand now by caufe thou haft well fas erfired my mynde in many of thefe questions

The. zli. chapitre

that I have made I purpose for this tyme here to make an ende. [Boctoure. 3 prage the ret Theme me or that thou make an ende moo of the cases that after thene oppinion be fet in ore ueres bokes for clerynge of conscience that as thou thinkelt for lacke of knowing of the lawes of the realme bo rather blynde confcience then grae a lyght vnto it, for if it be fo then fuerly as thou hafte faide it molde be refourmed for 3 thruke verily the lawes of the realme in many cafes mufte in this realme be obferued as well in confcience as in the judiciall courtes of theres alme. (Student. 3 myl mith good myll fhem to the Mozely some other questios that be made en the faid fumme to grue the and other occas fron to fe therin the oppinions of the faid fums mes and to fe ferther therupon home tho oppis mions and the lames of the realine boo agre toe grder. And ret befrde thefe queftions that 3 intende to fhewe vnto the there be many other questions in the faid summes that had as grete nede to be more playnly beclared accordynge to the lawes of the realme as those that I fiall Theme the bere after or as 3 haue fpoken of bee

fore but to the cases that I hall speke of here after I wyl hewetheno, thruge of my concept in them, but wyl leve it to other that wyll of charite take some serther payme in that behalfe.

of the summes called summa Rosella and summa Angelica whiche he thonketh necessare to be loked appon and to be sene howe theistande and agre with the lawe of the realme.

The rise chapter.

De first question is this / whether a cultome may breke a lawe positive Summa Rosella titulo consuetudo. Paragraffe xiu.

The seconde is if a man attaynted or bany some specific that restitucion stretche to the goodes. Summa Bosella in the title Dampnatus in principio.

Them whether a man outlawed, abuved, or suged for felonge or treason, or he that is an asculmus may be slayne by estraungers, and se like matter therto. Summa Angelica, in the title asculmus. Paragrassa. i.

Of Brem whether the maister thall be bounde by the acte or offence of his servatt or of his officer/fuma Angelica/in the title offs. Para. iii.

Ttem phether a velague may gyue away his goodes summa Angelicas in the title bonatio.

Them whether an abbot may gyue, re. funa angelica in the tytle bonatio i. Bara.r. r. trite. Them whether a woman coverte maye give away any good and it is answered summa Heage gelica in the title bonatio.i. Parrgraffa.ri.

The.rlij.chapitre.

that Me maye nat without Me have goodes bee

fydeher bowige but onely in almes

of goodes after before atterndre be good/sums ma angelica/in the title bonatio 1. para.rii.and it semeth there nave and loke Summa angelica in the tytle alienacio. Daragraffa.rriii.

Them if a man wyttyngly make a contracte bytwene two kynnessolke or other that maye nat lawfully maryo togyder whether he hathe forfett his goodes/Summa angelica in the title

bonatto.t. Waragraffa. rui.

I Item whether the father mare grue to the fone/Summa angelica/in the title vonatio .t. Waragraff.rix. And Summa rofella, in the title

bonatto.puma paraffa.rlij.

T Item whether a man may grue aboue.v. C.s abic infinuacione Summa angelica in the trile

bonacio i Aparagraffa rr.

I Item whether a gyfte halbeauorded by an ingratitude/Summa rosela, in the title bonacio prima paragraffa.rvü.and.rrix. and there it is said that the gyfte is vorde by the lawe of nature and loke Summa angelica, in the title bos natio.prima. Paragraffa.rxiiü.and.rrv.

I Item whether any grite bytwene the hule bande and the wrie maye be good and it is faid re when the hulbande grueth it causa remunes rationis, Summa rosella, in the title bouatio.

prima paragrafia.rrri.

UItem if a man make a wyll and entre in to res

ligion whether he may after revoke the wyl and it is faid that freres myno?s may nate and other may Summa rofella in the title bonatio prima.

Maragraffa.rrrv.in fine.

The rightes that he hathe in the same whether the patronage ic. and the tribes passe/Summa rosella in the title bonatio prima. Paragraffa.

(I Item whether all that is bought with the money of the chirche be the chirches Summa Rosella, in the title ecclesia. i. Paragraffa. vij.

Them if a gyfte made to a monasterie may be auopded by that that the gyuer hathe chyldren after the gyfte. Summa angelica in the title bot natio prima paragraffa, rlif.

Ditem if a man bye a thringe vinder the halfe price whether he be bounde by the lawe to res flore. rc. Summa Rosella, in the trile emptio 2

vendicio. Paragraffa.vi.

opulator agrorumay abture/Suma rosella/in the tytle Emunitas. i. in principio. Et habetur ibi in fine quod licet leges ercipiant plures personas in per ius canonicum legibs derogatuest.

Ttem whether a man hall take the chirche for grete enorm yous offence that is not murdre nor felony. Summa Rosella in the title Emunis

tas.ij. paragraffa.tij.and.rt.

T I tem if a man take one in the hygh maye and braweth him out and there beteth him whether he hal have the puny Thement that is orderned

The. rli. chapitre:

for them that stryke one in the hyghe way. Sum ma 23 ofella in the the tytle Emunitas. 4. 1842

ragraffa.vi.

After for that offence be tuged to bethe fumma Bofella in the title Emunitas. I. Wara. vif.

I Item whether the byllhoppes paleys be fene

Waragraffa.rriif.

I Item whether the vignite of a byffhoppe ior prefthode vischarge bondage fumma Rosella

in the title Episcopus in principio.

If Item whether a clerke is bounde to pay any impositions or tallages for his patrimonre or otherwyse. Summa Rosella, in the trile excomunicatio, i. divisione octava. Paragraffa, iii . z.v.z.vi. et divisione nona. Paragraffa, prima. I I Item is it were ordepned by statute that is a man selle. zc.he shal grue to the kynge. ii.d. whe ther a clerke be bounde if he sell of his prebende summa Rosella in the tytle ercommunicatio, i. divisione nona. Paragraffa. iii.

Them if it be orderned by statute that there shall not be layde upon a beed persone but suche a certaine clother or thus many tapers or candolls whether the statute be good and it is leste for a question. Summa Rosella in the trile excomunicatio i bivisione. ruij. Para. vij. in sine.

Them if a man make a lease of a mylle for terms of verse and it is agreed that the less shall

terme of reres and it is agreed that the leffe that grinde the leffoure tolle fre ourringe the terme

after the le lo 102 18 made an erle or a buke a bathe greter housholde then before, whether the leffe be bounde therto . rc. Summa Bofella in the

tytle familia. Waragraffa.v.

I Item if a mayfter myll nat pape bis feruauns tes mages that hath ferned him fapthfully whe ther that the feruaunt may take fecretly as moo che goodes of the mayfters.rc. and if he bo whe ther he be bounde to reftitucton, fumma Bofella

in title familia Baragraffa.vi.

I Item thynges immouable of the chirch may nat be gruen, fuma Rofella in the title feodum. Para.t. a fe there in principio mhat feodum ia. I Item whether the fones bafterdes and the fo nes lawfully begotten Wall enherite togrder fuma Rofella, in the tytle filius. Waragraffa. 1.

T Bre mhether the fader ? mot may fuccede to their bafterd ffima rofell'i the title filis 18a.mil I Item whether the father may leue any of bie goodes to his bafterdeiffima Bofellam the ritle films. paragraffa.v. and in fumma Bofella, in

the trile focietas . Paragraffa. rxiú.

I Item whether the offence of the feder Bail hurte the fone in temporall thringes fumma 230

fella in the trile filis. paragraffa.r.

T Bre if a man gruc all his landes a goodes to hischyldren whether a bafterde fall haue any parte:fima rofella in the ritle filius qua. 1xi.

I Item to whome treasoure founde belongeth fumma Bofella in the tytle furtum. gara.ri.

I Item if a bere of other mylde beelt that is fo

fore hurte that he may be taken cometh in to as nother mannes grounde whether it be his that ometh the grounde or his that strake him, suma rosella, in the tytle furtum. Paragraffa. rif.

Titem whether thefte be in a lytell thynge as well as in a grete thynge / Summa Rofella / in

the title furtum. Baragraffa. Evill.

Matem what payne a thefe hall haue, Sumo ma Rosella, in the tytle furtum. Paragraffa. rru I Itë the goodes of vede men go to the herzes and that of vampued men.s. de terris, Suma rosella, in the tytle hereditas. Paragraffa. prima. I Item whether a man shalve saide gyltye of murdre by commaundement counsagle or assent. Summa Rosella in the tytle homicidium. ii. per totum, and like matter is homicidiu. iii. in prino cipio and divers other cases.

Them a man maketh a propur contracte with a woman and after hath a childe by heret after marreth another woman and hath a childe the nat knowinge of the first contracte whiche of the children halbe his herre. Summa Rosella

in the tytle Illegittimus. Maragraffa.iif.

Them whether the pope may legytomate one to temporall thynges and to succede. Summa Rosellann the tytle Illegittimus. Para.rrv.
Them if goodes be founde that were lefte of the owner as forsaken who hath right to them. Suma Rosellain the title Inventa surth. Pa.ü. And loke Suma Rosellain the tytle Ibara.rvü And thus I make an ende of these questions.

Theirligichapitre. fo.lrrrvd.

and bycause thou pestieddest me in the rest che pitre to hewe the sommhat where yonoraunce excuseth in the law of the realme and where nat will answere sommhat to the question and so commet the to god.

The lawes of Englande and where not.

The riff, chapitre.

Dudent. Ignozaunce of the lame thoughe it be muyncyble bothe nat excuse as to the lame but in feme cafes, for euery man is bounde at his perril to take knowlege what the lame of the realme is as well the lawe made by ftatute as the comon lame: but Tgnozaunce of the bede whiche maye be called the ranoraunce of the trouth of the bede may excuse in many cases. Doctoure. 3 put cafe that a statute penall be made and it is enacted that the ftatute fall be proclaymed before fuche a bare in euery fbyte and it is nat proclaymed before the bare , and after the daye a man offendeth agarnfte the ftas tute fall be renne in the penaltre. (Student. I thrike renf there be no ferther mordes in the Statute to helpe hi that is to far.that if the pros clamació be nat made that no man Calbe boude by the statute , and the cause is this , there is no statute made in this realme but by the affent of the lordes spirituall and temporall and of al the comonsitiat is to fave ity the knghtes of the

STATE OF THE A

The rluf. chapitre.

three cytesyns and burgefes that be chofen by affent of the comons whiche in the parliament represent the estate of the hole comons. And eue ry statute there made is of as stronge effecte in the lame as if all the comons were there prefent personally at the makynge therof, and lyke as there neded no proclamacion if all mere there prefent in their owne perfone/fo the lawe prefus meth there nedeth no proclamacion when it is made by there auctorite and then when it is ens acted that it halbe proclaymed. rc. that is but of the favoure of the makers of the flatute and nat of no necelfyte, and it can nat therfore be tas ken that their entent mas that it folde be vopd if it were nat proclarmed. Heuertheles fome be of oppinion that if a man before the baye aps pornted for the proclamacion offende the eftaru te that he Golde nat in that cafe be punyfibed for thet far that the entent of the makers of the fratute fall be taken to be that none Wolde be punyifhed before that bare i whiche is aboute to fome other but admyt it be as thet fare / yet bethatin fuche cafe is renorauntis nat excus fed by the rgnozaunce of the lame , but breaufe the entent of the makers excufeth him. [Doco toure. It is enacted in the vij yere of kris 23 7= charde the feconde the. vi. chapitre that every therrife thall proclarme the ftatute of mrnchefs tre thre tymes every yere in every market towne to the entent that offenders fal nat be excused by rgnoraunce , and it femeth by those mordes

that if no proclamacion be made that the offens ber may be excused by rgnoraunce. T Student. Some take the entent of that fatute to be that the peple by that pclamació folde haue know lege of the statute of mynchest to thentent that the forfeture therm may be take as wel in cofcience as in law and some take the statute to be o fuch effect as thou fpekeft of:that is to fay that no forfeture hal growe vpon the statute of win cheftre agaynit them that mere rgnoraut but p clamacionwere made according to the faid fta tute of Bichard. And if it be fo taken then the Ratute of mync. 18 of smalle effecte agaynft most pre of the people for certeyne it is that the faid pclamació is nat made but admyt it be as they lay then thet that be renoraut be excused by the faid priculer estatute specially made in that cafe t nat by the generall rules of the lame / 2 fome tyme in oyuers statute penalles thet that be rge nozafit be excufed by the felf ftatute as it is vpo the statute of Archarde the seconde the rife. gerenbe fecond ftatute and laft chapit whereit is enacted that if any persone take a benefice by proupfyon that he hal be bany shed the realme and forfeyte all his goodes, and that if he be in the realme he avoyde within.vi. mekes after he hathe accepted it / and that none Mall recerue bim that is fo banyffed after the faid . vi. me + kes vpon lyke forfeiture if he haue knowlege and foo he that hathe no knowlege is excused br the expresse mordes of the statute.

The. rhij. chapitre.

Budin likewise he that offendeth agaynst Wag na carta is nat excommenged but he have know lege that it is prohybrithat he both for theibe only excommenged by the fentence called fenten tia lata fup cartasith at ooth it mylfully or that both it by pgnoraunce, and correcte nat the felfe mithin.rp. Dayes after thet have marnyng. And somerme thei that be renoraunt of a itatute be excused fro the penaltre of a statute breause it Malbe taken that thentent of the makers of the ltatute was that none Walbe boud but thei that haue knowlege, but that any man Molde be bils charged by ygnozaunce of the lawe onely for that he is rgnoraunt. I knowe feme causes ers cepte it myght be applied to enfauntes that be in their infauncye and muhin yeres of bifcres cionifor if ygnoraunce of the lame Dolde excufe in the lame many offenders wolde pretende rgo noraunce. [Doctoure. Shall an enfant that hath viscrecion and knoweth good fro cuyll be punyibed by a penall ftatute that he is ygno. raunte in. CStudent. If the ftatute be that for the offence be fholde baue corporall parne 3 thrike he Dalbe excused and haue no corpos rall parne but I suppose that that is nat for the rgnozaunce, for thoughe be knewe the flatute and myttyngely offended ret 3 thynke he Mall haue no corporall payne as mbere be pleadeth toyntenauntcye by bede that is founde agaynfte him/or if be plede a recorde in affife and fayleth of it at his bay but it is breaufe the lawe prefus

meth that it was nat the entent of the makers of the statute that he Golde haue that pungifie ment/but if be be or yeres of oiscrerion to know good fro eugli mheiner he Mall then forfet the penaltye of the penall Ratute it is more boute tor it is comoly holden that if an enfant had nat ben excepted in the latute of foringement that the fortugement (holde haue bounde himiand fo Mall his ceffer and his leurenge of a croffe as garnft that ftatute/or if he be a gardern of a pit fon a fuffre a puloner escape he thall par the bet bycaufe the ftatutes be generallet if he fold be tho ftatutes be boude mubin age irke reafo mr! that he may by a statute penall leefe his goodes @ Doctour. yf an enfant po a murdre oz a felos ny at fuche yeres as he hath diferecton to know the lame Mall be nat haue the puny bement of the lam as one of full age. [Student I thrike res / but that is by an olde marime of the lame tor eschemyinge of murders a felonges a fo it is of a trefpas, but thefe cafes renne nat ppon the grounde of ygnozaunce/but with mhat acte ens fantes halbe punpfhable oz nat punpfhable for the tedernes of their age though thet be nat ygnotafit T Doctour. Be nat yet knyghtes and noble men that are boude mooft properly to fet their Rudge to actes of cheualtre for befence of the realme. And husbande men that muft vie ig! lage z bufbandzie for the fultenauce of the come naltyerand that may not by reaso of their labo! put them felfe to knowe the lame offcharged to

200.1.

The eligichapitre.

panotaunce of the lawe. T Student. Ho verily for freh all were makers of the statute the law prefuneth that all have knowlege of that thei make as it is faid before and as thei be boude at their pervil to take knowlege of the statute that thet make fo be all that come after them. And as for knyghtes and other nobles of the re alme me femeth that thei fold beboid to take knowlege of the lawe as wel as any other with in the realme except them that grue them felfe to the fludye r ererfyle of the lawe and ercepte forrituall tuges that in many cases be bounde to take knowlege of the lawe of the realme as is faid before in the rry chapitre. for thoughe thet be bounde to actes of chyualry for befence. of the realmerret thei be boud also to the actes of inflice and that as it femeth moze then other be by reason of their grete compassions and auc toite. And for the mel ordering of their tenau tes, fernauntes, and nerghbours that many tre mes have nede of ther helpe , and also bycaufe thet be ofte called to be of the kringes coufeple, and to the generall counfayles of the realme where their counfeyle is right expedient and ne ceffary for the comon welth, and therfore if the noble men of this realme wolde fe their chridie brought op in such maner that thei folde haue lernynge and knowlege moze then thet have cos monly vied to have in tyme palte , specyally of the groundes and principles of the lame of the realme mherin thei be enherite i thoughe thei

had nat the hyghe connyng of the hole body of the lame but arter fuch maner as mayfter fore tescue in his boke that he migtleth the boke de laudibus legum anglie auertyfeth the prince to haue knowlege of the lames of this realme. I suppose it wold be a grete helpe herafter to the ministracion of inflice in this realme a grete fus retre for them felfel and a right grete gladnes to all the people for certarnett to the more pte of the people wolde more gladir bere that their rulers and governours entended to ordre them with wisdome and iustice then with power and grete retynues. But rgnotaunce of the pede many tymes excufeth in the lames of Englande And I hal hortir touche some cases therof to heme mhere it hal excuse and mhere it hal nat ercufe, and then the reder may adde to it after his plefure 2 as he Mall thrinke to be couement.

Certerne cases and groundes where vgnos rauce of the bede excuseth in the lames of Englande and where nat. The pluischarure.

Ludent. If a ma bre a horfe i open market of hi that in right hath no pperty in hi nat knowing but that he hath right he bath good title tright to the horferthat ygnoratice fall excuse hi but if be had bought him out of open marketiot if he had knome that pe feller had no right pe byeng i ope market had nat excused bis

20.11.

The rind chapitre.

Action.

Blfo if a man reterne another mannes ferudunt nat knowing that he is reterned with him/that ranoraunce excufeth bim bothe for the offence that was at the comon law agaynft the maxime that probibited suche reterninge of another mannes feruaut. And alfo agaynit the ftatute of ruif of Edwarde the. if. wherby it is probibite ppon payne of imprisonment that none fal res terne no feruafit that beparteth withi ita terine without lycence or reasonable cause, for it hath ben almay take that the intent of the makers of the faid flatute was that thet that were rgnos raunt of the first reteynour Golde nat renne in any penaltye of the ffatute. And the fame law is ofhim that reteyneth one that is marde to ano ther mat knowynge that he is his marde. Blfoif homage be bue and the tenaunt after that the homage is bue maketh a feffement and after the lorde nat knowynge of the feffement outremeth for the homage in the cafe that renorunce fall excuse him of nomages in a Repleurs, thoughe be cannat auome for the homage, but if be had knowen of the feffement Be Golde haue velded pamages for the wrongefull takpnge. Alfo ifis man be bounde in an obligacion that be fal res parte the houses of him that he is boude to by fuche a certarne tome as ofte as nede fall res guyze and after the houses have nede to beres parted but he that is boud knoweth it natithat rgnotauce fall nat excuse bi:for be bath boude

him felfe to it and so he muste take knowlege at his peryll but if the condicion had ben that be Wolde repayre fuche houses as be to whome he was bounde folde affrgne, and after be affrge neth certayn houses to be reparted but he that is boude bath no knowlege of that affygnement that renoraunce Call ercufe him in the lawer for be bath nat bounde bim felfe to no reperacis one incertague but to fuche as the partye myll affigne, and if he none affigne he is bounde to none and therfore frth he that Colde make the allygnement is priny to the bede the is bounde to grue notyce of his owne affrgnement but if the affignement had ben appornted to a ffraune ger then the obligatour must have taken knowe lege of the affrgnement at his pergll. Alfo if a man bye landes wherunto another hathe trile whiche the brer knoweth natithat rgnozaunce excuseth him nat in the lawe ino more then it both of goodes. Blfo if a feruafit come with bis mailters horfe to a towne that by custome may attache goodes for bette/and rpon a playure as gapuft the feruaunt an officer of the towne by in formacion of the partye attacheth the mailters horfe thring rng that it mere the feruautes borfe that renozaunce excufeth him nat i for when a man myll boo au acte as to entre in to lande? feafe goodes take a byftreffe or fuche other he must by the law at his perri fe that that he both be lamfully bone as in the cafe before reberfed. And in lpkemyle if a Gerrife by a Repleuyn bes

Iruer other beeftes then were viftrerned, thous ghe the party that byftreyned fremed him thet mere the fame beeftes yet an accion of trefpas lyeth agaynft himrand renotaunce Mall nat exs cufe him for he falbe compelled by the lam as all officers comonly be to erecute the kynges wertte at his perril accordinge to the tenoure of it and to fe that the acte that he bothe be law fully bone. But otherwyse it is after some men if voon a somones in a precipe quod reddat the Gerrife by infrinacion of the bemandaunt fomoneth the tenaunt in another mannes lande thynking it is the tenautes lande there ther fay he fhalbe excused , for in that cafe he vothe nat feafe the landene take possession in the lander but onely both fomon the tenaut voon the land and the wrytte comandeth bim nat that he fal fomon the tenant voon his owne lande but ges nerally he wall fomon him and nameth nat in what lande and then by an olde marine in the lawe it is taken that he shall somon him yopon the lande in bemaunde, and therfore though be mystake the lande and be renoraunt of the ret if the bemaundaunt enforme him that that is the lande that he vemaundeth that suffifeih to the Derrife as to his entre : for the fomonyinge as thet fave thoughe it be nat the fenauntes lande. And here I make an ende of thefe queftrous for this tyme. Toocto? I pray the ret or we bepte take a lytel more parne at my velrre & Student what is yt. I Docto? That thou woldest Heme

me thy mynde in byuers cases of the law of the realme / whiche as me semeth standeth nat soo clerely with conscience as thei shold bo. And I wolde gladly here thy concept therm bow thei may frande with conscience. (Student, But the case and I hall with good myll sare as I thynke to them.

The first equestion of the voctoure whether the warrantye of the youger brother that is tas ken as berze breaufe it is nat knowen but that the eldeft brother is bedeibe in cofcience a barre to the elder brother asit is in the lame.

The.zly chapitre. Octour. 2 ma feafed of landes in fee bath pflue it. fones the eldeft fone goth beronde the fee and breaufe a comon voyce is that be is bede the youger brother is taken for herze the fader byeth the ronger broder entreth as Benze and alieneth the lande wuh a marranty a byeth muhout any heyre of his body a after the elder brother cometh agayn relaymeth the lande as herreto his father whether Dall he be barred by that warrantpe incofcience as he is i the law Withdent. Itis an olde marime i the law that theeldest broder Mallithis cafe be barred. End that maxime is take to be of a ftrong effect i the lawas ifit were orderied by flatut to be a bari. And use as olde a law that such a warden fial barre the hegre as it is that the enheritautice of the father that onely by feende to the eldelt fone

The.ziv.chapitre.

End fith the lame is fo why Wold nat then cone firence folome the lame as wel as it both in that pornt that the eldeft fone fall haue the lande. Doctour. for there appereth no reasonable caufe wherupon that maxime might haue a lam full begrnnynge , for what reason to it that the marantye of an aunceftre that hath no right to the lande fold barre bim that hath right And ifit were o'iderned by ftatute that one ma folde baue another mannes lande and no caufe is exs preffed why be folde haue it in that cafe thous she he myght holde the lande by force of that ftatute i yet be coulde nat holde it in confetence without there were a caufe mbp be folde baue it , a thefe cafes be nat lyke as me femeth to the forfesture of goodes by an outlaware for 3 myl agre for this tyme that that forfeiture fandeth with confcience bycaufe it is orderned for mys nyftracion of suftyce/but 3 can nat perceyue any fuch caufe bere, and therfore me thy nketh that this cafe is lyke to the maxime that was at the comon lame of wrecke of the fee, that is to fay, that if a mannes goodes had ben wrecked vpon the fee that the goodes folde baue be immedis atly forfested to the kynge. End it is holden by all bocto's that that lawe is agernit confcience excepte certarne cafes that were to longe tores berfe nom. And it was orderned by the fratute at westmynstre the firste , that if a bogge oz cat come alrue to the lade that the owner if he pu them within a yere a a bare to be his fhall bauce

them wherby the faid law of wieckes of the fee is made more fufferable then it mas before and fo me thynketh in this cafe that his warantie is no barre in confcience thoughe it be a barre in the lame [Student. 3 prage the kepe that cafe of wrecke of the fee in thy remembraunce a put tt berafter as one of thy questions and therupon Theme me thy ferther mynde thermand 3 fhall with good well (heme the myne and as to this cale that we be in now me thrinketh the maxime wherey the warrantye shalbe a barre is good and reasonablesfor it semeth nat agaynft reason that a man Thatbe bounde as to temporal thene ges by the secre of his aunceftre to phome he is berte for lyke as by the lam it is orderned that be fhall have advauntage by the fame aunceftre and have at his landes by byffent if he have any. Byght fo it femeththat it is nat vnreasonable though the lawe for the printry of blode that is byi mene them fuffre him to have a byfaduaune tage by the fame auncestre but if the maxime were that if am of his aficeffres though be mere nat heyre to bym made fuche a marrantye that it fholde be a barre I thynke that maxime mere against conscience for in that case there were no grounde noz confrderacion to proue home the faid maxime i bolde baue a lawfull begynninge wherfore it were to be taken as a maxime as gaynft the lam of reason , but me thynketh it is othermife in this cafe for the reafo that 3 haue made before. I Doctour. If the father bride him and his herres to the payment of a vet and dye in that case the sone shall not be bounde to pay the vette on eles he have asses by vissent fro his father. And so I wold agree that is this made had asses by viscent fro the auncestre that made the warranty exthat he sholde have be barred, but elles me thy nketh it sholde stande hardely with conscience that it sholde be abarred.

T Student. Inthat case of the obhigacion the lame is as thou farfte and the caufe is for that the marime of the law i that cafe to none other but that be shalbe charged if he biane affes by onffent but if the maxune bad ben kenerali that the beyze sholde be bounde in that rafe without any affes to if it were orderned by flatute that it sholde be for I thrike that bothe the mazune Tthe ftatute fholde well frande with cofcience. And lykelame is where a man is vouched as beyze be may entre as be that bath nothing by pricent but where be claymeth the lande in bis owneright there the warranty of his aunceltre halbe a barre to him thoughe be baue no affes fro the fame auncestre, and though it be faid in Ezechiel the rviil. chapitre. That the fone fal natherethe wyckednes of the father. That 18 understande specyally but as to tepozal goodes the oppunion of poctours is that the fonne fom tyme may bere the offence of his father.

Moctour. How that I have herde thy mend in this case I well take adursement therm tell a better leasure and well none procede to anos The rivi chapitre . 40. lerrriid.

ther queltion. (Student. I prarethe vo as thou fayeft and I hall with good myl make ane

fwere therto as well as I can.

The feconde question of the voctoure if a man procure a collaterall warrans treto extracte a ryght that he knos weth another man hath to lande phether it be a barre incons ablatt soft a cience as it is in the Lame or nat. The rly1. chapitre.

Dande the opseasour felleth the lande. rc. the alrene knowing of the by feafon opterneth a release with a warranty of an auncestre colate rall to the offeafre that knoweth alfo the right of the villefye. The auncestre colaterall oreth af ter mbofe beth the warratre biscendeth vpo the by feafre i whether maye the aliene in that cafe holde the lande in conference as he mare by the lame. I Student Srib the warrantye is opfa cended voon him wherby he is barred in the lam/me thenke that be final also be barred in co. fcience and that this cafe is lyke to the cafe in the nexte chapiere before, wherin I hauefayde that as me thynketh it is a barre in confcience. Toctoure. Ehoughe it meght be taken for a barre in cofcience in that cafe ret me thris keth in this cafe'it cannat / for in that cafe the ronger brother entred 188 hepre knowynge none other but that he was hepre of ryghte

The rivi chepitre:

and after whe be folde the lande the brer knew nat but that be that folde it had good right to felle tt and fo he was renoraunt of the title of the eldeft brother and that ygnoraunce came bp the befaute z abience of bim felfe that was the elder broder. But in this cafe as wel the byer as be that made the colateral marantye knew the right of the billeafre and byde that thei coulde to extynct that right'z fo thet byd as thet molde nat folde baue ben bone to them, and fo it fee meth that he that hath the lande may nat with confcience kepe it. f Student. Though it be as thou fayelt that all thet offended in opiernynge of the faid colaterall warrantre pet fuche ofe fence to nat to be confrdered in the lame but it be in very fpeciall cafes for if fuche alegraunce fholde be accepted in the lawer relestes it other mirtrages bolde be of fmall effecte, and poon euery lyght furmyfe all waytynges myght come un tryall whether thet were made with confers ence or nat. Therfore to avoyde that inconved nyence the law myl brue the partye to answere onelymbether it be his bede or natiand nat whe ther the bede mere made with confcience or as garnit confcience, and thoughe the partre map be at a myfcherf therby/yet the law wyll rather fuffre that myscherf then the faid inconvenience And I ke lame to if a moman court for brede of ber hufbande and by compulcion of him lenge a frne , ret the woman after her hufbandes orthe hall nat be admytted to theme that matter un a

sopdynge of the fyne for the inconvenience that myght folome therupon, and after oppinion of many men there is no remedte in thefe cafes in the chauncerre for thet fare that where the cos mon lame in cafes concernying enheritance pute teth the partye fro any aucrment for efcheming of an inconvenience that might folome of it as monge the people/that if the fame incouentence Molde folow in the chauncerpe if the fame mate ter myght be pleded there that no Sub pens Molde lye in fuche cafes and fo it is in the cafes before reherfed, for afmoche veracion, belage, coftes, and exspences myght grome to the party if he sholde be put to answere to suche quermen tes in the chaucery as if be mere put to anfmere to them at the comon law a therfore thet thenke that no Subpena lyeth in the fatd cafes ne in oe ther cafes like vnto them. Heuertheles 3 bo nat take it that their oppinio is that he that bought the lande in this cafe may with good confcience holde the lande breause he fall nat be compele led by no lame to reftoze it, but that he is in con fcience and by the law of reason bolide to restore tt or otherwyle to recompence the partye fo as he hall be contented and I suppose verily it is fo if he will kepe his foule out of perril a bauns ger And aft fome men thefe cafes may be refem bled the cafe of a fyne with one claime that is re mebred before in the.xuq.chapitre of this boke where a man knowynge another to baue right to certerne lande caufeth a frne to be leured

The xlva chapitre,

therof with proclamation and the other suffer reth sque peres to passe without clayme in that case he hath no remedye nerther by comon iam nor by Subpena and that get he that leuted the sque is boude to restore the lande in conscience. And me thynketh I coulde right well agree that it sholde be so in this case, and that species ally bycause the partie him selse knoweth perestiety that the said colateral warrantize was op terned by couen and agaynst conscience.

The thyrde question of the voctoure.

The riverchapitre. Octoure. I pray the let me nome here thy mynde how the lame of Englande concers nyng goodes that be wrecked upon the fee may ftande with confcience for I am in grete boute ofit. [Student. I praye the let me firite bere thyne oppinion what thou thynkest therin. ar poctour. The ftatute of weltmynftre the furft that fpeketh of wrecke is that if any ma : bogge or cattercome alyue to the lande out of the fbrp or barge, that it fall nat be tuged for wrecke fo that if the partye to whome the goodes belong come within a yere and a bay and proue them to be his that he fhall haue them or elles that thet shall remarne to the kynge. And me thynketh that the faide ftatute ftandeth nat with confere ence for there is no lamfull caufe mby the pere ought to forfeit his goodes me that the kyng of

fordes ought to have them, for it is no cause of forfeture in the partye but rather a caufe of fos rome and beurnes. And fo that lame femeth to adde forome vpon forome. And therfore bocs tours holde comonly that he that hathe fuche goodes is bounde to reftitucion and that no cus ftome may belperfor ther fayett is agaynfte the comaundement of god. Zeut. zir. where it is cos mauded that a man hall love his nerghboure as him felfe, and that thet fay be both nat that taketh away his nevghbo's goodes but thei as gree that if any man have cofte and laboure for the faurnge of fuche goodes mrecked specially fuche goodes as wolde perrifte if thei lar ftyll in the materias fuger/paper/falte/mele/and fus che other , that he ought to be alowed for his coftes a laboure but he must restore the goodes except be coude nat faue them without puttring his lyfe in reoperdye for them , and then if he put his lyfe in fuch teoperdy the owner by cos mon prefumpcion had had no maye to haue fas ued them then it is most comonly holde that he may kepe the goodes in conscience but of other goodes that woldenat fo lpgbtly peryffhe but that the owner myght of comon prefumpcion faue them him felfe or that might be faued with out any peryll of lyfe, the takers of them be bounde to restitucion to the owner whether be come within the yere or after the yere. And me thruketh this cafe is fowhat lyke to a cafe that I hall put if there were a lame and a custome

The xivil chapitre

in this realme or it were ordequed by ftatute that if any aliene came though the realme in pyl grymage and orethithat all his goodes (bolde be forfetithat lame (bolde be agaynst conscience for there is no cause reasonable why the saide goodes Molde be forfet. And no more me thens keth there is of wiecke. T Student. There be opuers cafes mhere a man thall lefe his goodes and no befaute in him/ as mbere beeftes ftray a way from a man and thei be taken vo and pros claymed and the owner hath nat herde of them within the yere and the payer thoughe he made fufficient biligence to have berd of them yet the goodes be forfet and no befaute in him and fo it is where a man kylleth another with the foerd of 3.at Style the fwerde ibalbe forfet as a beo. dande and yet no befaute is in the owner and fo me thynketh it may be in this cafe, and that frth the comon la we before the faid ftatute was that the goodes wrecked voon the feefhalbe forfeit to the kringe, that thei be alfo forfeit now after the statute except thei be faued by foloming the fratute for the lame muft nedeft reduce the pros partye of all goodes to some man, and when the goodes be wrecked it femeth the propertye is in no man but admyt that propertye remagne ftyl in the owner then if the owner percafe wold ne uer clayme them it sholde not be knowen who ought to take them/z fo myght thei be oiftroied and no profite come of them/wherfore me thru kerb itressonablethat the lame shall apporut

who ought to have them , and that hathe the lame appoynted to the kynge as foueray and bede ouer the people (Doctour. In the cales that thou haft put befoze of the ftray and beos dand there be confideracions mby thei be tota feit but it is nat fo bere andme thynketh that in this cafe it mere nat vireafonable that the lame holde fuffre any man that wolde take the to take and kepe the to the vie of the owner 1145 urng his reasonable exspences izthis me thris keth were moze reasonable law then to pull the propertye out of the owner without caufe , but if a man in the the fee caft his goodes out of the Thyp as forfake there voctours holde that eues ry man mar take them lawfully that wyll but othermyfeit is as thei far ifhe throme them out for fere that thei fold ouer charge the ihip W Student. Lhere is no fuch law in th Treatme of goodes forfaken/for though a ma meruc the possessió of bis goodes and farth be forfaketh them yet by the lame of the realine the pperty remarneth ftyll in bim, and be mar feale them after when he myland if any man in the meane tyme put his goodes in fafegarde to the vie of the owner, I thynke be both lawfully and that be malbe alomed for his reasonable exspences in that behalfe he halbe of goodes founde but be hall haue no propertre in them no more the in goodes founde. And I wolde agree that if a man preferibe that if he fynde any goodes with th his maner that be folde haue them as bie TH.i.

The rivid chapitre.

owne that that prescripcion were porde / for there is no confyderacion home that preferips cion myght haue a lawfull begynnynge but in this cafe me thynketh there is. I Doctoure. mbit is that. @ Student. St te this the kringe to the olde cultome of the realme as lord of the naro ve fee to bounde as it is fard to fcoure the fee of priattee and perrte robbers of the fee. And fore is redde of the noble kringe faint Eds gare that he molde toyle in the pere fcoure the fee of fuche pyllattes but I meane nat therby that the kring is boude to condute his marchau tes voon the fee agarn't all outmarde enempes but that he is boude onely to put away fuch pp rattes a perpre robbers. And bycaufe that can nat be bone without gret charge it is nat virea fonable if he haue fuche goodes as be miecked voo the fee toward that charge @ Doctor.vpo that realo I myl take a respute tri another tyme

ther it stande with conscience to prohibite a Jury of mete z brinke tyl thei be agreed. The plviff. chaptire.

Ogetoure. If one of the rif. men of an end uest knowe the verve trouth of his owne knowlege and instructeth his felowes therof and thei will in now; se grue credence to him, and ther spon by cauce mete and difinke is prospibility them, be is diquen to that point that ere

ther he must assent to them and grue the verdit agaynste his owne knowlege and agaynste his omne confcience/or bre for lacke of mete/pome may that lame then stande with conscience that mpli dique an innocent to that extrempte to be epther forsmorne or to be tampsthed and ore for lacke of mete. Detudent. I take nat the law of the realme to be that a Jurye after thet be smorne may nat ete not brike tyl thet be agreed of the verdyt but trouth it is there is a maxime and an olde custome in the lame that thei Wall nat ete not brynke after thet be imorne trilitget haue gruen their verdit mithout the affent and lycence of the suffice and that is orderned by the lame for the eschemynge of byuers inconues nientes that myght folome therupon and that specially if thei fold ete or drynke at the costes of the parties , and therfore if thei Do the cons trarpett may be layde in arest of the ingement but with the assente of the Justyce they maye bothe eate and bignke, as if any of the Jurous res falle fyke before thet be agreed of their vers dit fo fore that he may nat comon at of the vers dytithen by the allente of the Bustice he mare baue mete and brinke and alfo fuch other thene ges as be necessarre for him z his felomes also at their owne costes or at the indefferent costes of the ptres if thei fo agree by the affent of the tuffice may bothe ete and brinke/and therfore if the case happen that thou now spekest of z that the Jurge can in no myle agree in their perdyte H .11.

and that appereth to the suffice by examinacio the suffices mare in that cafe fuffre them baue bothe mete and brynke for a trme to fe mbes ther thet myll agree, and if thet well in no myle agree/I thynke that then the tuftices maye fet fuche ordre in the matter as fall feme to them by their discrection to stande with reason a cons fcience by amardynge of a neme enqueft and bo fettrige fries voon them that thei fhall fride in befaute oz othermirle as thei fhal thynke belt by their discrection lyke as thei mare bo if one of the tury bye before verdit or if any other like cafualties fall in that behalfe. But what the ius ffyces ought to bo in this cafe that thou balte put to their diferection I myll nat treate of at this tyme.

The v.question of the voctoure whether the colours that be gruen at the comon law in ally ses accions of trespas and others other accisons stande with conscience by cause thei be most comonly sayned and be not treme.

The xlix chapitre.

Octour. I praye the let me here thy mynd to what entent such colours be gruen, and syth thei be comonly vatrue how thei may stan de with conscience. C Student. The cause why suche colours be grue is this there is a maxime and a grounde in the lawe of Englande that if the besendant or tenant in any acció plede a ple

that a monteth to the general pffue that he fhal be compelled to take a generall yffue, and if he wrlnat he halbe condempned for lacke of ans fmere, and the general pffue in affpfeis/that be that is named the piffeafo? hath bone no mroge noz no orffeafon. And i a mirtte of Entre in the nature of affyfe the generall yffue is that be off feafed him nat, and in an accion of trefpas that he is nat grity and fo every accion bath bis ges nerall rifue affraned by the lame, and the tes naunt muft of neceffrte erther take that general rifue or plede fome plee in abatemente of the wirtte to the jurifdiccioito the perfone, or elles fome barre or fome mater by may of conclucion And therfore if Johan at Style infeffe Wenry Bert of lande and a ftrauger beyngeth an afffe agarnit the faid ib. Iberte for that lande phofe tytle be knoweth nat. In this cafe if be fold be compelled to plede to the pornt of the affrie, that is to faye that he hath bone no wronge ne no byffeafon all the matter folde be put in the mouthes of the xilay men which be nat lerned in the law and therfore better it is that the law be fo ordred that it be put in the beterminacion of the tuges then of lar men. And if the faid ID. Wert in the cafe before reherfed wolde plede in barre of the affre that Johan at Strle was fea fed and infeffed him , by force wherof he entred a afteth tugemet if that affre fold le agaynft him that plee were nat good for it amounteth but to the generall yffue and therfore he halbe

The rlip chapitre

compelled to take the generall yffue or elles the affre fhalbe ar arded agarnft bim for lacke of anfmere. And therfore to the entent the matter may be fiemed and pleded before the tuges rae ther then before the Jurye , the tenauntes vie a coloure of accion wherby it hall appere that it were burtfull to the tenaut to put that matter that he pledeth to the tugement of.ru men and the mooft comon coloure that is vied in fuche cafe is this when be bath pleded that fuche a man infeffed bim as before appereth it is vied that be fall plede ferther a far that the plerne erfie claymringe in by a coloure of a bede of feffe ment made by the faid felfoure before the feffes ment made to him where nought paffed by the bede entred von whome be entred and afketh tugement if the affre lye agarnft bim . In this cafe by caufe it appereth to be a boute to valere ned men whether the lande paffe by the bede without lyuerey or natitherfore the law fuffreth the tenafit to have that speciall matter to birng the mater to the beterminacio of the luges. And in fuche cafe the tuges may nat put the tenaunt fro the plee for thei know nat as tuges but that it is trew, and fo if any befaute be it is in the tee naunt and nat in the courte. End thoughe the trouth be that there was no fuche bede of feffes ment made to the pleyntynffe as the tenaunte pledeth yet methynketh it is no befaute in the tenaunt for he voil it to a good entent as before

appereth. I Boctour. of the tenaunt knowe that the feftour made no luche bede of tenemens to the piernipffe then bere is a befaute in the tenaunt to plede it for he mytryngely fayth as gaynfle the trouth , and it to boiden ty all boce tours that eucry lye is an offence more or leffer for it it be of mairce a to the burte of bis neveb boure , then it is called niendació perniciofo . z that is beedly finne. Eind if it be in fporte anat to the burte of no man not of custome vied ne of pleasure that be bath in frengaben it is ventall frnne and is called in lairn mendacium tocos fum. End if it be to the profite of bis nerebe boure and to the burte of no man then it is allo vental frane, tis called in latin mendacio officio ciu Endthough it be the lefte of tho thie pet it 18 a vental ignne ? molde be eschewed. [stus dent. Though the mydorffes of Egypte lyed whe thei had referued the male chridien of the Ebrewes, feynge the kringe 12 baro , that the Ebrewes had women that were connyng in the fame crafte whiche or thet came bad referued the chyldren als ue where in bede thei them felte of prie and of brede of god referued them. yet faint Berome expoundeth the texte folowinge whiche fayth that our lorde therfore gaue them boufee that is to vnderfrande that be gaue the fpiritual houfes and that thei had therfore eter nall remarde , and if thei fynned by ibatlye all though it were but vental, yet I can nat fe how thei Molde haue therfore eternall remarce.

The rlix chapitres

And alfo if a man entendyng to fle another afke me where that man is it nat better for me to tre and to fay I can nat tell where be is though 3 knowe it the to fheme where be is wherupon murdre fholde folome. T Doctoure. The bede that the my dwyffes of Egypt ord in faurng the choldren mas meritorious a beferued remarde euerlafteng if thei beleued in god and ord good bedes befyde as it is to prefume thei byd , when ther for the love of god refused the bethe of the annocentes and then though thet made a lye af ter whiche was but ventall frane that coulde nat take fro them their remarde: for a veniall fynne both nat veterly byffynct charite but lets teth the feruour therof, and therfore it may wel ftande with the mordes of faint Ferome that thei had for their good bede eternal houses, and ret the le that thei made to be a ventall frine but neuertheles if fuch a lre that is of it felfe but vental be affermed with an othe it is alway mot tall if be knowe it be falle that be answereth And as to the other queftio it is nat like to this question that me haue in bande as me femethi for fomtyme a man for efchempng of the greter eupil may bo a leffe euril/and then the leffe to no offence in bim and foit is in the cafe that thou balt out wherin breaufe it is leffe offence to fare be motteth nat where he is thoughe he knowe mbere be is the it is to few where be is, wher pon murdre fholde folow it is therfore no frie to fay be wotteth nat where he is for every man

is bounde to love his neyghbour, and if he thew this cafe mbere be is knowing bie beth fold folowtherupon (: femerh that be loued bim nat ne that he ord nat to him as he wold be bone to but in that cafe we be in bere there is no fuche fynne eschewed for thoughe the partre pleded the generall pflue the gurre myght trnde the trouth in every thinge and therfore in that be farth that the playntyffe claymyng in by the co lot of a bede of feffemt where nought paffed en tred.zc.knowynge that there was no fuche fefs fement:it was a lye in bym and a venyall fynne as me thynketh. And euery man is bounde to fuffre a bedely fynne in bis nergbboure , rather then a ventall fynue in bim felfe. (Student. Though the Burye voon the generall yffue may trnde the trouth as thou farft , yet it is moche more basgerous to the Jurye to enquere of mas ny poyntes then to enquere onely of one pornte And for as moche as our lorde hath grue a cos maundement to every man vpon bis nergbbour therfore euery man is bounde to forfee as'moch as in him is that by him no occasion of offence come to his nerboure. And for the same cause, the lan bath orderned biuers marimes a prine ples wherby yffues in the kynges courte may be toyned voon one pornt in certayne as nygbe as may be, and nat in a generalty left offence myght folowe therupon agarnit god, and a burte alfo ento the Burge , wherfore it femeth that be los ueth nat bie nerghbour as bim felfe i ne that be

The rir chepitre:

bothe nat as he wolde be bone to that offereth fuche baunger to his nerghbour m! ere he may well and convengently kepe it tro him it be myil folome the ordre of the lame and it femeth that he purteth himfelfe mylfully in teoperdre that both it and if is wa; tten Ecclefiaftici if. Dui & mat pertculum millo peritir that is to fare the that loueth peryll mall peryll hin it and he that putteth his neyghboure in perril to offende put teth hun felfe in the fame , and fo folde he boo me femeth that wold wylfully take the generall yffue where he might convenyently have the ipe chall matter, and ferthermoze it is none offence in princes Truters to fuffre contractes Threnge and fellynge in markettes fartes, thoughe bee th persurve and orfcerte myll folowe therupon bycause suche contractes be necessarye for the comon welth foo it femeth tracerfe that there is no befaute in the partye that pledeth fuche a fpecyall matter to avoyde fro his neyghboure the baunger of persurve ine ret in the courte thoughe ther enduce him to it/ as they bo fome eyme for the entent before reberfed and in likes wyfe fome wril fare that if the rulers of crites and communaltyes fortyme for the pungifhes ment of felons/murdereres/and fuche other ofs fenderes nyll to the entente they wolde haue them to confeste the trouthe fare to them that be fufpected that thet be enfourmed in fuche cer tarne vefautes oz myfdemeanours in the ofens dere and that thet bo to the entent to baue them

Sample

The.l. chapitre.

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to confesse the trouthe that thoughe thei were not so ensourmed that yet it is no offence to save thei were so ensourmed bycause thei doo it for the comon welth for is offenders were suffred to go unpunyshed the comon welthe wolde soone decay and unterly peryshe. I Doctoure. I will take adursemente upon thy reason in this matter tell another season.

The lirte question of the boctoure whee ther the statute of . rlv. of Edwarde the shirde of Silva cedua stande with conscience. The.l.chapitre.

Ofkynge Edwarde the thirde, it was ene acted that a prohibicion Molde lye where a man is impleded in the courte cryftyen for dyft mes of woode of the age of rr. yere or a boue by the name of Silua cedua, howe maye that statute stande with conscience that is so dyrectely agaynste the lybertie of the chirche and that is made of such ethynges as the parliament had no auctorite to make any lawe of. I Student. It appears the in the said statute that it is enacted that a prohibicion sholde lye in that case as it had vied to be before that tyme, and if the prophibicion laye by a prescripcion before that statute why is not then the statute good as a construction of that prescripcion. I Doctoure.

位于在经历的对象的

The. I. chapitre:

If there were suche a prescripcion before that Matute that preferipcion was vorder for it pro bibiteth the payment of tythes of trees of the age of.rg. rere or about and payenge of tythes is grounded as well voon the lame of god as vpon the lame of reason and agarnst tho lames lyeth no preferipció as it is holde moft comonly by all men. [Student. That there was fuche a preferipcion before the fard ftatute, and that if a man before the faid ftatute had ben fued in the spirituall courte for tythes of woode of the age of rr. yere or a boue that a prohibicion lag, aps pereth i the fayd ftatute it it can nat be thought that a statute that is made by auctorite of the hole realmeras well of the kynger of the lordes spirituall and temporall and of all the comons: well recrte athenge agarufte the trouth. And ferthermoze I can nat fe how it can be grouded by the lame of god that the tenth parte Golde be payde for trthe and none other porcyon but that but I thynke that it be grounded voon the lame of reason that a man folde grue some rea fonable porcion of his goodes temporall to the that ministre to him thynges fpirituall for eues ry man is bounde to honoure god of his proper substaunce, and the gruruge of suche pozcion bath nat ben onely vied amonge faythfull peos pleibut also amonge vnfaythfull people as it appereth Benefis. zlvi. where corne mas gruen to the preftes in Egrpte of the comon barnes. And farnt Poule in bis eppftles affermeth the fame in many places as i his firft epffle to the corputhres the ir chapttre mbere be farth be that worketh in the chirch fal ete of that that belongeth to the chyrche. And in his epritte to the Balathyes the. vi.chapitre he fayth let him that is inftructed in fpirituall thringes beparte of his goodes to him that inftructeth him. And faint Luke in the.x. chapitre farth that the wor ke man is morthy to haue his hyre , all mhiche farenges may right conveniently be taken and applyed to this purpofe that fpiritual men whi che ministre to the people spirituali thynges, ought for their ministracion to haue a compes cent lyurnge of them that thei ministre to. But that the tenth parte folde be affegned for fuch a porcion and nerther more nor leffe / 3 can nat percepue that that foldebe grounded by the lame of reason not immedpatty by the lame of god for before the lame migtten there mas no certagne porcion affrgned for the fpirituall mis nifters neyther the.r.pte noz the.ru. parte vnto the tyme of Jacob for it appereth Een. rrviu. that Jacob avomed to pay orfmes which was taken amonge the Jemes for the.r.parterfour lorde profpered him in his tourney and if the.r. parte had be his buty before that auoment had ben in vayne to haue auomed it , and foo it had ben if it had ben grounded by the lame of reason and as to that that is fpoke in the euangelyftes and in the nemelame of tythes at belongeth rae ther to the grueng of tribes in the tyme of the

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olde lawe then of the neweras appereth Math. rrif. 7 Lu.ri. where our lord fpekyng to the pha ryfree farth who be to rou pharifies that irth myntes reme z herbes, z forgette the tugement and the charite of goditheft it behoueth you to bo and the other nat to omptte , that is to fage, it behoueth you to so tuftice and charite of god and nat to omytte payenge of tythes thoughe it be of fmall toynges as or myntes/reme herbes and suche other. And also that that the pharyly fayth. Luce. rof. I paremy tythes of all that 3 hauerts to be preferred to the olde lam a nat to the tyme of the neme lame. Therfore as I take it the pareng of tythes or of a certaque porcion to spirituall men for their spiritual ministracion to the people hath ben grounded in biuers mas ners. firfte before the lame wirtten a certarne pozcion sufficient for the spiritual ministers mas bue to them by the lame of nature impiche after them that be lerned in the lame of the realmer is called the lame of reason, and that porcion is bue by all lames , and in the lame maytten the Jues were bounde to grue the. r. parte to their preeftes as well by the faid auome of Jacob as by the lame of god in the olde testament. And in the neme lamerthe payenge of the r. parte is by a lame made by the chirche for the fuftenatice of them that mittre to the people. And the reafo why the r. parte was orderned by the chirche to be pared for trthe was this. There is noo cause mby the people of the new lame ought to pape lelle to the intiifters of the newe lawithen the people or the olde telfament gaue to the mits miters of the olde tellamente. for the people of the newe lave be bounde to gretter thynges! then the people of the olde lame mere as it apo pereth Daib. v. where it is faid but your good workes aboude aboue the morkes of the fcribes and the pharripes | re maye nat entre in to the kyngdome of heuen. And the facryirce of the olde law was not fo honourable as the facrifice of the newelaw is, for the factifice of the olde lame was onely the fygure , and the facrifice of the newelaw is the thringe that is frgured that mas the fadomeithis is the trouth. And there fore the chirche vpon that reasonable confidera cion orderned that the parte Golde be pared for the fultenaunce of the ministers in the newe lame as it was for the fuftenaunce of the mrnye ftere in the olde lame and foo that lame with a cause maye be encreased or mynysthed to more porcion or to leffe as halbe neceffarte for them. W Boctoure. It appereth Eenefis. rug that Bbraham gaue to Delchyfedech orfmes and that is taken to be the r. parter and that was longe before the lame mirtten and therfore it is to suppose that he ord that by the lame of god. CStudent. It apperett nat by any fcripture that he ord that by the comandement of god:ne by any revelacion. And therfore it is rather to Suppose that he byde parte of bury and parte of . his owne fre myllifor in that he gaue the.r. pter

as a reasonable pozcion for the sustenaunce of Welchestoech and his ministers he ord it by co maundement of the lame of reason as besoze ap pereth / but that he gaue the. z parte that was of his free mylliand bycaufe he thought it futio cient treasonable but it be had thought the rif. part or the rid part had suifised he mysht have gruentt and that with good conscience. And fo I suppose that in the newe lame the gruyuge of the r. parte is by the lame of the chirch and nat by the lame of god i oneles it be taken that the lame of the chirche is the lame of god / as it is fomtyme taken to be but nat appropriately not smmedyatly for that is taken appropryately to be the law of god that is conterned in fcripture that is to sape in the olde testamente or in the neme. [Doctoure. It is sommhat daungerous? to fay that tythes be grounded onely voon the lame of the chircher for some men as it is faide fay that mannes lame byndeth nat in confcience and fo thei mrght happen to take a boldenes therby to benye their tribes. [Student. Itruft there be none of that oppinion, and if there be it is the more pyte. And neuertheleffe thei maye be compelled in that case by the law of the chir che to pare their tribes as mel as thei fold be ifpayenge of tythes were grounded meerly voo the lame of god. I Doctour. I thrike well it be as thou farft and therfore I holde me contented Therin. But 3 pray the Geme me thy ingude in this questionits a bole countrey prescribe to pay

no tythes for corneror her or fuche other, whee ther thou thrake that that prescripcion is good [Student. That queltion bependeth moche vpo that that to faid before/for if pageing of the tenth parte beby the lame of reason or by the lame of god then the preferipcion is pordebut if it be by the lame of manithen it is a good pie feripcion fo that the ministers have a sufficient pozcion beirde. I Doctour. John Berson whis che mas a boctour of dutnite in a treatyfe that benamed regule moralearfayth that orimes be payed to preftes by the lame of god. T Student The wordes that he fpeketh there of that mate ter be thefe. Solucio vecimara facervotibus eft de ture diumo quatenus inde sustententur sed quo tam banc vel illam affignare / aut in alios redditus commutare politiui iuris exilit.

That is thus moche to saye the payenge of off mes to precise is of the lame of god, that ther may therby be susteyned but to ally gne this por cion or that for to chauge it to other rentes that is by the same positive, and if it sholde be taken that by that morde, becommany whiche in Enspirishe is called by smes or tythes, that he ment the tenth parte, and that that reparte sholde be payde for tythe by the same of god, then is the sentence that followeth after against that says enge; for as it appereth above he sayth after the but to assign this porció or that, or to chauge it in to other rentes belongeth to the lame posis twe that is to the lawe of man, and if the tenth

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parte were affrened by god then may nat a leffe parte be affrgned by the lame of man for that Mold be contrary to the law of godiz fo it Wold be voyde. And me thynketh that it is not lykely that fo famous a clerke wold ipeke any fentence contrary to the lame of god of contrary to that be had spoken before and to proue that he mene nat by that terme bedame that byfines Wolde alway be taken for the tenth parte it apperech in the. mil. parte of his workes in the rray, tytler litteray/where he fagth the. Ho vocatur poicio curatio bebito propterea, decime, eo quod femo per fit vecima pars immo eft interdum vicefis ma aut tricesima. That is to far the porcio oue to curates 19 nattherfore called or fines for that it is alway the tenth parte for fomtyme it is the rr.o: theurr.parter fo it appereth that by this morde becimarum he meute a certarne porcion and nat precyfely the r. partert that that porcio Molde be payde to preeftes by the lame of god to sustepne them with stakinge as it semeth the lame of reason in that sayinge for the lawe of god as it may one may be wel and convenyently taken bycause the law of reason is gruen to eue ry reasonable creature by god. And then it foo loweth pursueantly that it belongeth to the law of man to affygne this porcion or that as nes ceffre fhall require for their fustenaunce, and then his sarenge agreeth well to that that is faid before/that is to fage, that a certagne pore cion is one for preeftes for their fpirituall mys

neftracion by the lawe of reason. And then it wolde folowe therupon that if it were orderned for a lame that all payenge of tribes Wolde tro henfiorth ceifer and that every curate molde ba ue affrened to him suche certagne porcion of lande rent or annurtye as Molde be summerent for him a for fuche mynifters as Molde be necessary to be puder hi accordruge to the nombre of the people there or that every parrilhene or houls holder folde grue a certapne of moner to ibat vfe I suppose the lame mere good / 2 that was the meaninge of Johan Berson as it semeth in his wordes before reherfed where he farther but to chauge tithes in to other rentes is by the lawe positives that is to say by the lawe of man z so me thynketh that if a hole courre prescribe to be quete of cythes of come or greffe fo that the forrituall mynysteres have a sufficient pois cion beirde to lyne spon, that it is a good pies feripeion and that thet Golde nat pende that in suche countreys parde no trthes for it were harde to fare that all the men of yealpe or of the eeft partres be bampned bycauie thei pape no tythes but a certapne porcion after the cultome there for certern it is to pay fuch a certern pors cio as mel thei as all other be bouder if the chir agme cheafhe it any custome nar withstanding but if 4 4 the chirche afke nat it femeth that by that wat afking the chirch remytteth iter an exaple ther of me may take of the appointe poule that thous shihe myshihaue take his necessary lyurus of

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them that he preched to ret he toke it natit nes uertheles theithat gave it himnat ord nat ofe fende bycaufe he orde nat afke it but if one man in a towne wolde prescribe to be bischarged of tithes of come and graffe me thynketh the pres feripeion is nat good oneles be can proue that be recompenseth it in another thynge , for it fes meth natreasonable that he Molde par le le foi his tythes then his neyghbours porfeyinge that the forritual ministers are boude to take as mos che viligence for him as thet be for any other of the parriffe wherfore it ingght ftande with rea fonthat he hold be copelled to pare his irihes as his nerghbours posoneles be can proue that be payeth in recopence therof more then the. r. barte in another thyng neuertheleffe g leue that mater to the tugement of other/2 then for a ters ther proue that the faid prescripcion of nat pay enge tubes for trees of . rr. yere z aboue thoug? it were nat good of come a greffe fold be good fome make this reason/thei far that there is no Enafurapthe but it is eyther a predial tyther a personal nambrentheior amprietribeit thei fay that if a tythe Bolde be payde of trees when thet be so solder that that tythe were nat a predial tythe for the bredial tythe of trees is of fuche trees as birng forth frutes and that encrease yerely , as apple trees mutte trees peere trees a fuch other wher of the prediall tribe is the apples nuttes pees resiz luche other frutes as come of them gerelp zwhen the frutes be tribed if the owner after

fell the trees there is no tythe bue therby it of thefe tythes that is to fave of predyall tythes was the comandement gyuen in the olde law to the Jewes / as appereth Leuttici. rrvu. where it is faid. Omnes decime terre fine de pomis are bora fine be frugibus ont funt, et illi fanctifican tur that is to fay all tythes of the erthe erther of apples of trees or of greynes be oure lordes and to him thet be fanctified and thoughe the faid lame fpeketh onely of apples yet it was vit derstande of all maner of frutes . And bycause it fayth that all tythes of the erth be our lordes ther fore calues, lambes, and fuche other muste also be tribed , and they be called by some men predyal tribes that is to far: 17thes that come of the grounde how be it thei calle them onely predralles medyate and ther be the fame tythes that in this writinge be called myrte tribes and the other tythes, that is to fare, tythes of . apples and come and fuche other be called pres dyalles immediate for thet come immediately of the grounde and fo bonat myrte tythes as eurdently appereib. [Doctoure. But what thynkest thou Walbe the predial tythe of affhes elmes/salowes/alders a suche other trees as be re no fruytes wherof any profite cometh , why hal nat the tenth parte of the felfe thying be the erthe therofifthei be cutte pomne as well as it is of come and greffe. T Student. for I thynke that there is to that entent grete oweriste bye twene come and greffe and trees , and that for

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bruers confrderacions wherefore is this. The propertye of corne and greffe to nat too growe over one pererand if it bo it myll perpithe and come to nought and fo the cuttringe bowne of it is the perfeccion and preferuacion therofi and also a specrall cause that any encrease folos weth of the fame. And therfore the. r . parte of that encrease shall be payde as a predrall tribe and there no beduccion figall be made for the charges of it and fo it is of thepe and beeftes that must be taken and kylled in tyme for elles thet mare perrithe and come to nought. But when trees be felled that fellinge is nat the per feccion of the trees it causeth nat them to ens crease but to becay for moost comonly the trees wolde be better if thei myght growe fiell. And therfore vpo that that is the cause of the becay and diffruecton of them it semeth there can noo predyall tribe ryfe, and some men save that this mas the cause why our lorde in the faid chapis err of Leutterry, gave no commaundement to tribe the trees but the frutes of the trees onely. F Doctoure. It appereth in Maralapo. rrri. that the Jewes in the trine of the kringe Ezes chias offered in the temple all thringes that the groude brought forthi a that mas trees as well as corne or graffe. & Student It appereth nat that thei brd that by the commundement of god mberfoze it is like that thei byd it of their owne beuocion and of a feruoure that thei had aboue their butte to the reparitinge of the temples

whiche the kringe Esechias had the comanded to be repayzed it fo that texte proueth nothinge that tribe folde be payed for trees, ziberfore thei fare ferther that trouth it is that if a man to the entent he wolde pare no tythe wold wil fully suffre his coine a gresse to stande stylla to perriffe be Wolde offende cofcience iberby but though he funte his trees to ftande ffyll cotynus ally without fellying bycaufe be thinketh a trib wolde be asked if be felled them so that he bote nat of an cuyll wyll to the curate be offendeth nat in conscience ne be is nat bounde to restitue cion therfore as he foold be if it were of coine z greffe as before appereth and methynketh fere ther that in this case of tribe of woode, the trib therof molde ferue fo lytell to that purpofe that tribes be payde for that is nat lykely that thet that made the lawe for parment of tythes ente ded that any tythe folde be payde for trees or woode for the spirituall menysters muste of nes ceffrepe foende parir a mekely and therfore the tube of trees or woode cometh fo feldome wold ferue fo litel to the purpose that it shold be pard for that it wolde nat belpe the in their necessyte fo that yf thei Wolde be barueu to trufte therto though it might belpe bi in whose tyme it stold happen to fall ret it folde vecerue the that tru Red to it in the meane tyme , 7 also Molde leue the parriffic without any to minifre to them. T Doctoure. I molde well agre that for trees that bere frute there holde no predrall tribe be

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parde when ther be folderfor the predral trthe of them is the frutes that come of them and fo there cannat be two predrailes of one thynge, But of other trees that bere no frute me thyne keth that a predial tythe Wolde be payde when thei be folderand fo it appereth that there ous ght to be by confitution prougnitall made by the reverent father in god Bobert mynchelfe late archebyfibop of Launterbury where it is faid and veclared that Silva cedua is of cuery kynde of trees that have being i that thei Wold be cutte or that be able to be cutte wherof we wri farth he that the possessour of the faid mos des be compelled by the centures of the chirche to pare to the pary The chirche or mother chire che the tythe as a reall or prediall tyther and fo ly vertue of that constitucion prourncial a pres by all tythemust be payde of suche trees as have no frute/for 3 wolde well agre that the faid coe fitucion puinciall fretcheth nat to frees that bere frutes thoughe the wordes be generall for all trees as before appereib . Student. I take nat the reason why a prediall tythe folde nat be payde for trees that bere frute to be breaufe two predial tythes canat be payd for one thyng for when the tythe is parde of lambes yet fhall tythe be payde of wolle of the fame Theper for it is payde for another encrease , and so it myght be laid that the frute of a tree is one encreafe/ ? the fellynge another / but I take the cause to be for as moche as the fellinge is nat properly an

encrease of the trees but a diffrucció of the trees as it is fard before. And ferther & wolde bere thy mynde vpon the faid conftitució prouincial whiche wel that to the be payed for trees by the poffeffois of the woode that if the poffeffour fel the moode for a E. li. and gyue the brer a cers tern tyme to fell it is what tyth hal the possesso? paye as longe as the moode standeth. @ Boco tour. I thynte none for the predial tyth cometh nat tril the woode be felled and a personall trth be can nat payer no more then if a man plucked bomne his house and felleth it oz if he fell al bis lande in whiche cafes 3 agre well he Wall paye no tribe nerther predial nor personail. T Stus dent, And then I put cafe that the brer felleth the mode agayn as it is frandyng vpo the groud to another for E.C. it. what tythe halbe pared then. T Doctour. Then the fritt byer fal paye tythe of the furplulage that he taketh ouer the E.li.that he parde as a personall trthe. I Stus dent. And then if the seconde byer after that cut it bowne and fell it when it is cut bowne for leffe then he pared what tribe Call then be pared. O Doctour. The Mal hethat felled the par the tythe for the trees as a predial tribe. f Studet I can nat fe how it can bei for he nerther bathe the trees that the pdial tythe fold be pard for if any ought to be paydinoz he is not poffeffour of the groad where the trees grow a therfore if any pdial tribe fold be pared it fold be pard eyther by the firste possessoure by reason of the

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wordes of the faid constitucion putncial which be that the tythe halbe pared by the possessour of the wood, or by the last byer byeause he bath the trees that folde be tythed z by the first pos Mellour the tyth canat be pard as a pdial for be cut nat the bownene thei mere nat cutte bomne vpon his bargapne, and by the last brer it can at be pardnerther as a predral tribe for the faid constituction saythe that the possessoures of the woodes holde be compelled to papit. End ther fore I suppose that the trouth is that in that ca feno tribe falbe payde , for as to the laft feller be hall pave no personall tythe for he gayned nothinge as it appereth before: and no predyal eythe Chall be payde for it holde be agarnft the said pscripcioniz also the cuttynge downe is the biftruccion of the trees anat their prefernacion as is faid before. & Doctour. Then takeft thou the faid coffitucion to be of finall effecte as it fes meth (Studet. Ittake to be of th' effect that of wood aboue.rr. rere it byndeth nat byeaufe it to cotrary to the comon law z to the faid pfcripe cion that flandeth good in the comon law but of wood vnder.rr.rere wherof tythe hath ben aca customed to be pardithe costitució is nat agaist the faid prescripcion bycause parenge of tythe under: rr. vereis nat probibit but fuffred by the fatd fratute how be it fome far that by the very rigour of the como law tithes fold nat be pard for wood under xx. rere no more then for wood aboue. rr. rere dna that aphibicionin that cafe

lyeth by the comon law nevertheleffe bycaufe it hath ben luffered to the contrarte that i many places trth bath be payd therof, 3 paffett ouer but where tythe hath nat ben pard of wood vne der.xx. gere Ithrinke none ought to be pard at this day in lame not cofcience but admrt it that the faid continue on taketh effect for parment of tyth wood under rr. vere as a predial tyther ret A can nat fe how the trthe therof fhold be pard by the possessoure of the woode if he sellethem. but that it Wold be pard rather by hi that hath the trees , for the confitucion as that the tythe halbe pared as a reall or a prediall tythe and that is the tenth parte of the fame trees as it is of cornerate a man bre corne voon the grounde the tyer mallpaye the tribe and nat the feller z fort fhold feme to be here and what the confittu cion mente to becree the contrarie in the tythe woode 3 can nat tell oneles the meanyinge mere to enduce the owners to pay tith; of grete trees when thei felle them to their owne vie whiche me thruketh sholde be very herde to proue to frande with reason thoughe the said statute had neuer be made as I haue faid before: And fere thermore I wolde here vuder correccion moue one thringe a that is this as it femeth thei that were at the makinge of the faide conflitucion that knewe the faid prescripcion byd nat folowe the orzecte ordre of charite therm foo perfytely as thei myght have bone , for when thei made the fayde Constitucion prournicall byrectely

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sgarnft the faid pferipeionithei fet lam agarnft customer power agaynst power i in maner the spiritualize agaraste the temporalize , wherby thei myght wel know that gret varyaunce a fute Molde folome and therfore if thei had clerely fene that the faid preferipcion had ben agagnit conscience thei shold first have moved the kyng and his counfeyle and the nobles of the realme to have allented to the reformacion of that pres feripeion and nat to make a lawe as it were by auctoryte and pomer agaynft the preferipcion a then to threte the people and make them byleue that ther al were accurred that kepe the faid pre fertpeton or that megutagne it , and it femeth to stande bardely wuh cosciece to reporte so many to frande accursed for folow page of the faid fras tute tof the faid prescripcion as many bo , and yet to bo no more then bath ben bone to brynge them out of it. of Doctour. We thynketh that it te nat convenient that lay men folde argue the lames and the vecrees or constitucions of the chirchestherfore it mere better for them to grue credence to spirituall rulers that have cure of their foules then to truft to their omne oppinis one and if thet wolde bo fo then fuche matters wold moche the moze rather cesse then thei wil boby fuche reasonynges. [Student. In that that belogeth of the articles of the farth I then ke the people be bounde to byleue the chirches for the chirch gadered togyder i the holy gooft can naterre w fuche thrnges as belonge to the

eatholyke farth, but where the chirche maketh any lawes wherby the goodes or possessons of the people may be bounde or by this occasion or other maye be taken fro them there the people may lawfully reafo whether the lawes byndeth them or nat tor in suche lames the chirche may erre t be decequed and deceque other erther for Tyngularytye or for couetyce or for fome other caufe z for that confideracion perterneth mooft to them that be lerned in the lame of the realme to know fuch lames of the chirch as trete of the orderinge of landes or goodes and to fe whether thet may frande with the lames of the realme or natiz therfore it is necessarre for them to know the lawes of the chirche that treate of byfmes of executo2s of teltamentes of legacies balterdy matrymonye and oyuers other wherin thei be bounde to knowe when the lawe of the chirche must be folomed therm and when the law of the realme: mherof breaufe it is nat our purpofe to treate at this tyme, 3 leue to fpeke any moze at this tyme , and wyll reforte agayne to fpeke of tribes wherm some men fay that of tynne cole and leade no trthe Gold be parde mhen thei be folde by the owner of the grounde bycause it 18 parte of the enberttaunce zit is moze rather a biftruccion of the enheritaunce then an encreace and therfore thet fay that if a man take a tynne werke and grue the lorde the tenth of The accor dringe to the custome that the lorde shall par no eithe of that tenth orith nerther predial or pers

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fonall but if the other that taketh the werke have gepies and advauntage by the werke it les meth that it were nar agaynfte reason that he molde pay a personable tythe of his gerns the charges veducte. T woctour. I pray the Wewe me firit mhat thou takeit for a pionali tythe and voon what groude plonall tythes be payde as thou thrukelt fo that one of vo my frake nat ano ther therm of Student. I will with good wrl z Meherfore thou Halte vnderstande that as I take it pfonal tithes be nat payde for any encreafe of the groundeibut for fuche profite as cometh by the labour or industrye of the personeras by by enge and felling and fuch other , and fuche pers fonall tythes as grake it multe be ordred after custome and the churche hath hat vied to leure those tythes by compulsion but by conscience of the parties/neuertheleffe Raymond farth that it is good to paye perfonall tythes or with the affent of the persone to vistribute them to poore menior elles to paye acerterne porcion for the bole but as Inocen fayth where the cultome is that thet Wold be parde the people be boude to pare them as well as predgalles, the erfpences beduct how bett in the chirch of England thet ple to fue for suche personal trthes as mel as for predvalles and that is by reason of a costitucion prouncial that was made by Bobert wruchele fre late archebyshoppe of Launtozburge by the whicheit was ordepied that personall ty thes Mold be pared of craftes and marchagies

and of the lucre of brenge and fellrage, and in like wife of carpeters, fmythes, meuers, malons and all other that worke for hyre that thei Wal pay tribes of their tyre except thet will sque any thringe certaine to the vicor to the light of the chirche if it so please the persone and in ano ther place the faid archebyllhop fayth that of the pamnage of moodes/2 suche other thynges tc.and of tyffbriges, trees, bees, bownes, and of byuers other thynges there remembred and of craftes, and of byeng and fellynge, and of the profites of orners other thyuges there recited, enery man tholde fatifite competentize to the chirche to the whiche thei be bounde to grue it of rightino expences by the gruyinge of the faid tithes beducte or witholden but onely for the payment of tythes of craftes and of brenge and fellynge and by reason of the said constitucions prouincialles Comtyme futes be taken in the fpre rituall court for personall tythes, and therof ma ny men do meruaple breause the beduccions ma ny tymes muste be referred to the conscience of the partie. And thei meruaple also why a lame Molde be made in this realme for paying of perfonal tuthes more then there is in other coutreis And here I wold move the ferther in one thyng concerning suche psonall tribes to knowe the mynde therm, and that is if a man gyue to anos ther an horse and he selleth that horse for a certeyn fame ball he pape any tythe of that fame. Doctoure, mhat thrnkest thou therm.

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TStudent. That he Gal par no tyth for there as I take it the profite cometh nat to hi by his owne industrye but by the gyfte of another and as I take it pfonall trtbes be nat pared for any profrte or advantage that cometh nemir to a man except it come by his owne industrye or ias bour and fo it both nat here And alfo if he fold par tribe of that he folde the horfe for he thold par tythe for the very hole value of the thyinge And as I take it the perfonal tythes for brenge and fellying that never be payed for the value of the thynge but for the clere garnes of the thing and therfore I take the cales before reberfed mbere a ma felleth his lande or pulleth somne a ame house z selleth the stuffe that he Mold there pay chofe eno tythe that it is there to be understande that my Flichbe hath the lande or house by grit or by oricent white 22 for if a ma bre land or bre the tymbre z stuffe of an house & fell it for a garne I suppose that he sholde pay a personall trthe for that garne and this cafe is nat lyke to a fee or annuyte grauted for coufagle where the hole fee Chalbe tithed for the charges beducte or fome certayn fome for it by agrement for there the hole fee cometh for bis counserle whiche is by his owne industrie. But in the other cafe it is nat fort the fame reas fon as for the perfonall tythe myght be made of trees when thet bescende or be gyuento any ma the felleth them to another that he hallpar no perfonaltythe. Doctour. We thynketh that if the borfe amende in bis kepynge and then be

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fell the horse that then the trihe halbe payd of that that the hors hath encreased in value after the grite and io it may be of trees that he Mail par tythe of that that the trees be amended afs ter the gyft oz oiscent. T Studet. Then the tyth must be the tenth parte of the encrease the expen ces beducterand then of trees the charges must also be veducte for it is then a personall tythe T there is no trethat is so moch worth as it hath hurte the grounde by the growing and therfore there can no personal tyth be payd by the owner of the groude when he felleth them though thet have encreased in his tyme. Hevertheles I myil speke no ferther of that mater at this trine but mixe myl heme the that if tynne leade: cole or trees the be folde that a mixte tribe can nat grow therby angt for a mixte tythe is properly of calues, lambes, pygges, and suche other that come parte of the grounde that thei be fedde of a parte of the kes pynge industrye, zouerfriht of the owners as it is faid befoze, but tynne, leade, z cole are pre of the grounder of the free holder trees growe of them felfe. And be also annexed to the freholde will growe of them felfe. And also the mixte tythe must be pared yerely at certain tymes apo much d pornted by the lawe or cultome of the countrey " & pay thall nat be felled not taken in many peres it fort semeth it can nat be any mirte trib, and these be fome of the reasons which theithat wold mayn terne that statute and prescripcion to be good

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make to proue their entent as thei thynke.

Doctour. what thynke thei it a man felle the loppes of his moode whether any tythe ought there to be pard. [Studet. Theithynke al one lawe of the trees 7 of the loppes. (Doctoure. And if he ple to fell the loppes ones i.rif.cz. rvt. rere what holde thei then. TStudent. That all 18 one lame. Tooctour. And what is their reas fon mby tythe ought natto be payde there as mell as for moode onder. rr. rere. @ Student. For ther fare that the loppes are to be taken of the fame condicion as the trees be what tyme To ever thei be felled a tipat no custome myl ferue in that cafe agarnst the statute , no more then it holde bo of grete trees. [Doctour. And what bolde thet of the barke of the trees. (Student Therm Bhaue nat herde their oppinions / but it semeth to be one law with the loppes. Tooc sour. I percerue well by that that thou haft faid before that the mende is that if a hole countrey Eprescribe to be quyte of tythes of trees of come Ya grelle oz of any other tythes that that pfcripe cio is good fo that the fpirituall minifters haue se co fufficient befide to lyue vpo bolt thou nat meane Aer 10. 1 Student. ves verily I Doctour. And then water 3 molde knowe thy invide if any man contrary to that prescripcion were sued in the spirituall court for come and greffe or any other tythes whether a probibicion foldelye in that cafe as it byde after the mynde before the faide ftatute where a man was fued in the foirituall court for

trthe wood. [Student. I thynke nay. [Doce tour. And why nat there as wel as it oya where a man was fued for the tyth wood. (Student. Soz as 3 take it there is grete ofuerfrige bys twent the cases and that rot this cause there is a maxime in the lam of England that if any fute be taken in the spiritual court wherby any goos des or landes myght be recovered whiche after the groudes of the lawe of the realme ought nat to be fued there though percafe the kynges cott hal holde no plee therof that yet a prohibicion hold treiz after whe it had cotrnued long that no trth were pard of wood bycause of the faid probibicion that after by preffe of tyme fome curates began to afke tythes of mood contrary to the lawe a contrarge to the faid pfcripcion lo that variaunce began to ryfe amonge curates z their parrifbens in that behalfe then for appea lynge of the faid paryauce the faid ftatute mas made and that as it femeth more at the calling on of the spiritualty the of the tepozalty for the Statute both nat expresly graut that the .phibis cion in that case of the tythe wood fholde lyeso largely as some far it lar by the law/how be it it both nat reftrern the como lam therm as it appe reth euydently by the wordes of the statute/2 fo after fome men it appereth before the ftatute z alfo after the statute/38 I haue touched befores that the forrituali courte ought nat in that cafe to have made ant presse for trth of wooder ther fore if thei byde a probibicion lay by the comon

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lamerz lyke lame is if the forrituall courte make peeffe pon fuche a legacte as by the lam of the realme is vorde as if a man bequeth to one ano ther mannes horsert the spirituall courte there poon maketh peelle to execute that legacy ther a probibicion lyeth for it appereth eugdently in the libel that in the lame of the realme that lega er is voyde to all ententes z that he to who the legacie is made fal neyther have the horse noz the value of the porfer in like mife if a man felle bis lande for. E. ti. z be is furd after in the fpiris tuall courte for the tythe of the faid. E. li. there a probibició fhal lye for it appereth in that cafe opely in the libel that no tyth ought to be pard that the spirituall lame ought nat in that cafe to make any processe, wherby the goodes of bi that folde the lade myght be take fro bi agamit the lame of the realmerand woon his grounde it is that if a man were fued in the fpirituall courte nom fith the statute for a mortuary that a probi bicion fhold lyer for it appereth in the libel that fith the statute there ought no fute to be taken for mortuartes, and the fame lame is if any fute mere taken in the foirituall court for a neme bus tye that is ef late taken in some places vpon lea fes of personages and vicarages whiche is cale led a bimiffion noble for it appereth eurdentely in the libel If any be made therupon that no fuch processe ought by the lame of the realme to be made in that behalfe , but in case of tythe come or greffe or fuche other thing; wherin thou haft

belyzed to know my mynde there appereth nos thruge in the libel but that the fute therof of ris she perterneth to the forrituall lame, and fo for any thying that appereth the partye may be hol pen in the spirituall courte by that prescripcion and if the case were so farre put that in the spirit tuall courte thei wolde nar alowe the faid pres scripcion yet I thynke no prohibicion Moldlye for though the foiritual tuges in a foirituall mat ter denre the partes of Justice, yet the kynges lames can nat refourme that but mult remyt it to their conscience. But if there were some res medre prouvded in that case it were well bone for some said that in the spiritual court thei myll admyt no plee agaynst tythes. And also if a com policion were made by affent of the patrone and of the ordinarye and bytwene a perfon and one of his pary Thens that the persone and his fuce cessours holde haue for a certeyne grounde fo many quarters of come for his tythe yerely and after contrary to that composition the persone in the foirituall courte afketh the tribes as thei falle that in this case no probibicion folde lye ne pet though the case were ferther put that the composition were pleded in the court and were by falowed: but al resteth in the conscience of the tuges spirituall as is faid befoze home be it bre cause some be of oppinion that a probibicion Molde lye in this last case: therfore & myl referre it to the ingement of other but in the case of the prescripcion before rehersed I take it for the

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elerer cafe that no prohibicio Chal lye as I haue faid before. And I befeche our lorde that this matter and suche other lyke therto maye be fo charrtably loked upon that there be nat herafs ter suche diussions ne suche diversites of oppinis ons therm as hath ben i tyme past wherby hath folomed grete costes t charges to many persos in this realme whiche bath moued me to fpeke fo ferre in this chapitre z in bruers other chapi tres of this present boke as & baue bone nat ens tendringe therby to grue occasion to any person to withholde his tythes that of ryght ought to be pardine to alter the porcion therin before ac Chame cultomed but as me thynketh thei ought to be ensectarmed by the same trile as thei ought to be apayde and by none other and that it mare alfo of fommhat appere that the faideflatute. rly . of Edwarde the thirde was well z lawfully made taresand voon a good reasonable consideracion and South of that the faid prescripcion is good also , so that no man was in any baunger of ercommunicació for the making of the faid statute nor yet is nat for the obserurnge therofine yet of the faid pres feripeion as it is noted by fome persones that there Molde be. And thus I commyt the vnto oure lorde mho euer haue bothethe and me in bis bleffrd keprige euerlaftrigly. Amen.

T finis.

of this present boke.

TThe introduccion. Colto, il. I The first question of the student whether the tenafit in tayle after possibilite of yffue extyncte may with coscience bo walt , the first cha. fo.ti. what is understande by this terme when it 18 faidithus it was at the comon lame. The fes conde chapitre. 40.VII. The seconde question of the student whether the goodes of men outlamed be forfet in confcto ence as thei be by the lame. The. if. cha. fo. viu The thirde question of the student is of mast bone by a ftraunger in landes that be in the han des of perticuler tenauntes. rc. The. mil. chas bitre. 40.ril The. nif. question of the student / whether a man may with conscience be of cousaple against hun that he knoweth is the beyre of ryght but he is certified bafterde by the ordinarre. The v.chapitre. The.v. question of the student: whether a ma maye with conscience be of counsaple with a man at the comon lawe knowinge that he bath fufficient matter to be discharched in the chain cery that he may nat pleade at the comon lawe. The.vi. chapitre. fo. riiu. The freth question of the student imbether a man mare with conserence be of counsarle agaynft the feffoure of trufte in an accion of tref pas that he bepnketh agaynste his feste of truste for takpuge the profites. I be. vu. chapitre. folio. rv.

The.vil.question of the fludent if a man that by war of biffres cometh to his bette but he ou ght nat to have bilirayned for it what restitució heis boude to make. The. viij. chapitre. fo. rvi of for what thruge a man mare lawfully ors Strayne. The.ir.chapitre The eight question of the student whether executours be bounde in conscience to make res stitucion for a trespas bone by the testatoure and whether thet be bounde to pay bettes vpon a cortracte friste i or make the faid restitucion. The r. chapure. The nynth question of the student, whether he that hath goodes belyuered him by force of a legacye be bounde in conscience to par a bette vpon a contracte that the testatoure ought if the executours have none other goodes in their handes. The. xi.chapitre. 40. xxiii. El Lhe .r. question of the student if a man haue yffue two fonnes and byeth feafed of certagne landes in feethe eldest oreth without yssue the rongest recourreth by astyle of moredauncestre the lande with damages fro the beth of the fas ther whether be be bounde in conscience to pay the bamages to the erecutours of the eldest bro ther for the tyme bely ued the ru chap. 40 xxv & The ri question of the student what damas ges the tenaunte in bower hal recover in cofcis. ence where her hulbande ored nat leafed but The bemauded her bower and mas benred. The riff.ch.apitre. 40 EFFL

The ru question of the student if a man know wrnge another to have ryght to his lande caus frth a fyne with proclamacion to be leuved aco cordynge to the statute and he that hatheright maketh no proclayme within. v. reres whether he be barred in conscience as he is in the lame. The ruy chapure. The rin question of the student ifa mathat hath had a chyld by his myfe oo that in hi is to have possession of his writes landes a the oveth or he can have it whether in coscience be shalbe tenaut by the curtely. The rv. chapitre. fo rrr. The ring queftion of the ftudent/if the graus tour of a rente enfesse the grauntee of the rente of parte of the lande whether the hole rente be extructe in conscience as it is the lawe. The rvi chapitre. 40. rrri. L be. rv. questio of the fludent if be that bath a rent out of two acres be named in a recoverve of the one acre he nat knowinge therof. ac. whe ther his hole rente be extructe in conscience. ac. The. rvij. chapure. fo.rrriiu. The ry question of the student, if a man bas ue a vyllerne for terme of lyfe and the vyllerne purchaseth landes in fee and he that hathe the pyllerne entreth whether he may with confcie ence kepe the lades to him and to his herres as he may by the lawe.the.rviu.cha. fo. rrrvi. The rou. queltion of the fludent if a man in the case nexte before enforme him that is in the reversion of the vyllerne that after the bethe

of the vyllerne he hath ryght to the lande and counsarleth him to entre wherupon grete sute and charges folowe what vaunger that is to him that gave the counsarle. The rir. chapitre. Folio. The. rvig. question of the student is vpon a. feffement made voon condicion that the feffe hal pare a rent to a straunger home that feffes ment Wall wer in lame and conscience. The.rr. chapitre. 40. rrrie. The.rr.question of the student is voon a fefs fement in fee and it is agreed that the feffe fall paye a rente to a straunger home that feirement hall mer mlame and conscience. The tri. chapitre. 40. zl!. Thowe vies in lande began and by what lame and the cause why so moche lande is put in vie The.xxu.chapitre. fo.zhu. The byuersytre bytwene two cases wherof one is put in the. ke chapitre and the other in the.rri.chapitre of this prefent boke. The.rrif. chapitre. Fo.rlvi mhat is a nude contracte or a naked promise after the lawes of Englande and whether any accion may lye therupon .the.rxiig.cha.fo. xlviig The example on of the fludent if a man that hath two fones one borne before espousels and the other after espousels by his woldrquethyth to his fone and herze all his goodes whiche of the fones hall have the goodes in conscience. The.xxv.chapitre. 40. liü.

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TExplicit.

I Thus endeth the seconde oraloge in Ens
slysshe bytwene a voctoure of viunitie
and a student i the lawes of England
which etreaty the of vivers then
gesthat be sportly touched
in the first lese of this pre
sent boke before the
untroduction.

Imprynted at London in fletestrete by me Robert Redman owellynge in saint Dunstones parysth next the chire che. In the yere of our lorde god a thousande frue hondred and rrxi. The first vay of the moneth of June...





